













# STATE OF NORTH CAROLINA

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## Session Laws and Resolutions

PASSED BY THE

1973 GENERAL ASSEMBLY

AT ITS

SECOND SESSION 1974\*

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE SIXTEENTH DAY OF JANUARY, A.D., 1974

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PUBLISHED BY AUTHORITY

\*The 1973 General Assembly convened on January 10, 1973, and adjourned on May 24, 1974, to reconvene on January 16, 1974; the body adjourned *sine die* on April 13, 1974. Session Law Chapters 1 through 826 and Resolutions 1 through 117 were passed during the First Session 1973 and are published in a separate volume. Session Law Chapters 827 through 1482 and Resolutions 118 through 186 were passed during the Second Session 1974 and are published in this volume. The index to this volume is cumulative; it covers all of Session Laws and Resolutions of the 1973 General Assembly, First Session 1973 and Second Session 1974.

## GENERAL ASSEMBLY 1973

## SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JAMES B. HUNT, JR. ....	President .....	Lucama
GORDON P. ALLEN .....	President pro-tem .....	Roxboro
ROY ROWE .....	Principal Clerk .....	Burgaw
W. EUGENE SIMMONS .....	Reading Clerk .....	Tarboro
BROOKS W. POOLE .....	Sergeant-at-Arms .....	Raleigh

## SENATORS

DISTRICT	NAME	COUNTY	ADDRESS
1	PHILIP P. GODWIN .....	Gates .....	Gatesville
1	J. J. HARRINGTON .....	Bertie .....	Lewiston
2	D. LIVINGSTONE STALLINGS .....	Craven .....	New Bern
3	WILLIAM D. MILLS .....	Onslow .....	Maysville
4	GEORGE ROUNTREE, III (R) .....	New Hanover .....	Wilmington
5	HAROLD W. HARDISON .....	Lenoir .....	Deep Run
6	JULIAN R. ALLSBROOK .....	Halifax .....	Roanoke Rapids
6	VERNON E. WHITE .....	Pitt .....	Winterville
7	DALLAS L. ALFORD, JR. ....	Nash .....	Rocky Mount
7	J. RUSSELL KIRBY .....	Wilson .....	Wilson
8	THOMAS E. STRICKLAND .....	Wayne .....	Goldsboro
9	WILLARD J. BLANCHARD (R) .....	Sampson .....	Salemburg
10	JOHN T. HENLEY .....	Cumberland .....	Hope Mills
10	JOE B. RAYNOR, JR. ....	Cumberland .....	Fayetteville
11	ARTHUR W. WILLIAMSON .....	Columbus .....	Chadbourn
12	LUTHER J. BRITT, JR. ....	Robeson .....	Lumberton
13	GORDON P. ALLEN .....	Person .....	Roxboro
13	KENNETH C. ROYALL, JR. ....	Durham .....	Durham
14	ROBERT J. BARKER (R) .....	Wake .....	Apex
14	BOBBY L. BARKER .....	Wake .....	Raleigh
14	WILLIAM W. STATON .....	Lee .....	Sanford
15	FRED FOLGER, JR. ....	Surry .....	Mount Airy
15	WESLEY D. WEBSTER .....	Rockingham .....	Madison
16	A. B. COLEMAN, JR. ....	Orange .....	Hillsborough
16	WILLIAM P. SAUNDERS .....	Moore .....	Southern Pines
17	CHARLES B. DEANE, JR. ....	Richmond .....	Rockingham
17	JAMES B. GARRISON .....	Stanly .....	Albemarle
18	RALPH H. SCOTT .....	Alamance .....	Haw River
19	C. COOLIDGE MURROW (R) .....	Guilford .....	High Point
19	LYNWOOD SMITH .....	Guilford .....	High Point
19	MCNEILL SMITH .....	Guilford .....	Greensboro
20	HARRY BAGNAL (R) .....	Forsyth .....	Winston-Salem
20	HAMILTON C. HORTON (R) .....	Forsyth .....	Winston-Salem
21	MALCOLM W. BUTNER (R) .....	Rowan .....	Salisbury
21	ROBERT VANCE SOMERS (R) .....	Rowan .....	Salisbury
22	CY N. BAHAKEL .....	Mecklenburg .....	Charlotte
22	EDDIE KNOX .....	Mecklenburg .....	Charlotte
22	HERMAN A. MOORE .....	Mecklenburg .....	Charlotte
22	MICHAEL P. MULLINS (R) .....	Mecklenburg .....	Charlotte
23	J. REID POOVEY (R) .....	Catawba .....	Hickory
23	KENNEDY H. SHARPE (R) .....	Alexander .....	Hiddenite
24	JIM F. HUGHES (R) .....	Avery .....	Linville
24	DONALD R. KINCAID (R) .....	Caldwell .....	Lenoir
25	W. K. MAUNEY, JR. ....	Cleveland .....	Kings Mountain
25	MARSHALL A. RAUCH .....	Gaston .....	Gastonia
25	JACK L. RHYNE .....	Gaston .....	Belmont
26	I. C. CRAWFORD .....	Buncombe .....	Asheville
26	LAMAR GUDGER .....	Buncombe .....	Asheville
27	CHARLES H. TAYLOR (R) .....	Transylvania .....	Brevard
27	MRS. ELIZABETH ANN WILKIE (R) .....	Henderson .....	Fletcher

## HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JAMES E. RAMSEY .....	Speaker .....	Roxboro
WILLIAM T. WATKINS .....	Speaker pro-tem .....	Oxford
*MRS. JO ANN SMITH .....	Principal Clerk .....	Raleigh
SAM J. BURROW, JR. ....	Reading Clerk .....	Asheboro
ARCHIE T. LANE, SR. ....	Sergeant-at-Arms .....	Hertford

## REPRESENTATIVES

DISTRICT	NAME	COUNTY	ADDRESS
1	W. STANFORD WHITE .....	Dare .....	Manns Harboro
1	VERNON G. JAMES .....	Pasquotank .....	Elizabeth City
2	W. R. ROBERSON, JR. ....	Beaufort .....	Washington
3	CHRIS S. BARKER, JR. ....	Craven .....	New Bern
3	JOE L. BRIGHT .....	Craven .....	Vanceboro
3	DANIEL T. LILLEY .....	Lenoir .....	Kinston
4	RICHARD S. JAMES .....	Onslow .....	Jacksonville
4	RONALD EARL MASON .....	Carteret .....	Beaufort
4	J. F. MOHN .....	Onslow .....	Richlands
5	ROBERTS H. JERNIGAN, JR. ....	Hertford .....	Ahoskie
5	J. GUY REVELLE, SR. ....	Northampton .....	Conway
6	J. A. EVERETT .....	Martin .....	Palmyra
6	C. KITCHIN JOSEY .....	Halifax .....	Scotland Neck
7	A. HARTWELL CAMPBELL .....	Wilson .....	Wilson
7	JOHN ED DAVENPORT .....	Nash .....	Nashville
7	LARRY P. EAGLES .....	Edgecombe .....	Tarboro
7	JULIAN B. FENNER .....	Nash .....	Rocky Mount
8	SAM D. BUNDY .....	Pitt .....	Farmville
8	H. HORTON ROUNTREE .....	Pitt .....	Greenville
9	MRS. JOHN B. CHASE .....	Wayne .....	Eureka
9	WILLIAM P. KEMP, JR. ....	Wayne .....	Goldsboro
10	T. J. BAKER .....	Duplin .....	Wallace
11	THOMAS J. HARRELSON (R) .....	Brunswick .....	Southport
12	B. D. SCHWARTZ .....	New Hanover .....	Wilmington
12	S. THOMAS RHODES (R) .....	New Hanover .....	Wilmington
13	JAMES E. RAMSEY .....	Person .....	Roxboro
13	BOBBY W. ROGERS .....	Vance .....	Henderson
13	WILLIAM T. WATKINS .....	Granville .....	Oxford
14	J. M. GARDNER .....	Johnston .....	Smithfield
14	BARNEY P. WOODARD .....	Johnston .....	Princeton
15	ROBERT L. FARMER .....	Wake .....	Raleigh
15	SAMUEL H. JOHNSON .....	Wake .....	Raleigh
15	WARD PURRINGTON (R) .....	Wake .....	Raleigh
15	WADE SMITH .....	Wake .....	Raleigh
15	HOWARD F. TWIGGS .....	Wake .....	Raleigh
15	ROBERT W. WYNNE .....	Wake .....	Raleigh
16	H. M. MICHAUX, JR. ....	Durham .....	Durham
16	GEORGE W. MILLER, JR. ....	Durham .....	Durham
16	WILLIS P. WHICHARD .....	Durham .....	Durham
17	EDWARD S. HOLMES .....	Chatham .....	Pittsboro
17	MRS. PATRICIA STANFORD HUNT .....	Orange .....	Chapel Hill
18	GERALD ARNOLD .....	Harnett .....	Lillington
18	JIMMY L. LOVE .....	Lee .....	Sanford
19	JAMES C. GREEN .....	Bladen .....	Clarkton
19	R. C. SOLES, JR. ....	Columbus .....	Tabor City
19	C. GRAHAM TART .....	Sampson .....	Clinton
20	NORWOOD E. BRYAN, JR. ....	Cumberland .....	Fayetteville
20	SNEED HIGH .....	Cumberland .....	Fayetteville
20	GLENN R. JERNIGAN .....	Cumberland .....	Fayetteville
20	MRS. LURA TALLY .....	Cumberland .....	Fayetteville
20	HENRY M. TYSON .....	Cumberland .....	Fayetteville
21	JOY J. JOHNSON .....	Robeson .....	Fairmont
21	GUS SPEROS .....	Robeson .....	Maxton
21	**FRANK S. WHITE .....	Robeson .....	Pembroke
22	DAVID BLACKWELL .....	Rockingham .....	Reidsville
22	W S. HARRIS, JR. ....	Alamance .....	Graham
22	JAMES E. LONG .....	Alamance .....	Burlington
22	HOMER E. WRIGHT, JR. ....	Rockingham .....	Eden

\*Resigned January 18, 1974. Succeeded by Grace A. Collins, Fuquay-Varina

\*\*Died March 10, 1973. Succeeded by Henry Ward Oxendine, Pembroke

DISTRICT	NAME	COUNTY	ADDRESS
23	HENRY E. FRYE	Guilford	Greensboro
23	THOMAS GILMORE	Guilford	Greensboro
23	MARGARET KEESEE (R)	Guilford	Greensboro
23	ROBERT ODELL PAYNE (R)	Guilford	Greensboro
23	C. W. PHILLIPS	Guilford	Greensboro
23	THOMAS B. SAWYER	Guilford	Greensboro
23	C. E. WEBB	Guilford	Greensboro
24	C. ROBY GARNER (R)	Randolph	Asheboro
24	W. FRANK REDDING, III (R)	Randolph	Asheboro
25	T. CLYDE AUMAN	Moore	West End
26	FOYLE HIGHTOWER, JR.	Anson	Wadesboro
27	THOMAS B. HUNTER	Richmond	Rockingham
28	CLYDE R. GREENE (R)	Watauga	Boone
28	MARSHALL HALL (R)	Stokes	King
28	WILLIAM S. HIATT (R)	Surry	Mount Airy
29	E. LAWRENCE DAVIS	Forsyth	Winston-Salem
29	FRED S. HUTCHINS, JR. (R)	Forsyth	Winston-Salem
29	C. DEMPSEY MCDANIEL (R)	Forsyth	Kernersville
29	E. M. MCKNIGHT (R)	Forsyth	Clemmons
29	EDWARD L. POWELL (R)	Forsyth	Winston-Salem
30	GILBERT LEE BOGER (R)	Davie	Mocksville
30	*JOE H. HEGE, JR. (R)	Davidson	Lexington
30	JIM MASHBURN (R)	Davidson	Lexington
31	AUSTIN A. MITCHELL (R)	Rowan	Kannapolis
31	SAMUEL KENNETH OWEN (R)	Rowan	Salisbury
32	RICHARD LANE BROWN, JR, III	Stanly	Norwood
33	DWIGHT W. QUINN	Cabarrus	Kannapolis
33	ART THOMAS	Cabarrus	Concord
33	MRS. FRANCES F. TOMLIN (R)	Cabarrus	Concord
34	JOHN WALTER BROWN (R)	Wilkes	Elkin
34	JETER L. HAYNES (R)	Yadkin	Jonesville
34	**WILLIAM E. STEVENS (R)	Caldwell	Lenoir
35	J. P. HUSKINS	Iredell	Statesville
35	HOMER B. TOLBERT (R)	Iredell	Cleveland
36	MRS. MARILYN R. BISSELL (R)	Mecklenburg	Charlotte
36	LAURENCE A. COBB (R)	Mecklenburg	Charlotte
36	MRS. JO GRAHAM FOSTER	Mecklenburg	Charlotte
36	DAVID D. JORDAN (R)	Mecklenburg	Charlotte
36	CRAIG LAWING	Mecklenburg	Charlotte
36	MRS. CAROLYN MATHIS (R)	Mecklenburg	Charlotte
36	ROY SPOON (R)	Mecklenburg	Charlotte
36	BEN TISON	Mecklenburg	Charlotte
37	**ROBERT Q. BEARD (R)	Catawba	Newton
37	G. HUNTER WARLICK (R)	Catawba	Hickory
38	E. GRAHAM BELL	Gaston	Gastonia
38	DAVID W. BUMGARDNER, JR.	Gaston	Belmont
38	JOHN R. GAMBLE, JR.	Lincoln	Lincolnton
38	CARL J. STEWART, JR.	Gaston	Gastonia
39	WILLIAM M. FULTON (R)	Burke	Morganton
39	LLOYD HISE, JR. (R)	Mitchell	Spruce Pine
40	ROBERT Z. FALLS	Cleveland	Shelby
40	JOHN J. HUNT	Cleveland	Lattimore
40	ROBERT A. JONES	Rutherford	Forest City
41	GLENN A. MORRIS	McDowell	Marion
42	FRED R. DORSEY (R)	Henderson	East Flat Rock
43	CLAUDE DEBRUHL	Buncombe	Candler
43	HERSCHEL S. HARKINS	Buncombe	Asheville
43	HERBERT L. HYDE	Buncombe	Asheville
43	JOHN S. STEVENS	Buncombe	Asheville
44	ERNEST B. MESSER	Haywood	Canton
44	LISTON B. RAMSEY	Madison	Marshall
45	W. P. BRADLEY (R)	Clay	Hayesville

\*Resigned June 18, 1973. Succeeded by William E. Lang (R), Lexington

\*\*Resigned February 25, 1974. Succeeded by Kenneth K. Kiser (R), Hudson

\*\*\*Resigned June 24, 1973. Succeeded by Kenyon B. Zahner, Jr. (R), Newton

## LEGISLATIVE SERVICES COMMISSION

SENATOR GORDON P. ALLEN, *Co-Chairman*

SPEAKER JAMES E. RAMSEY, *Co-Chairman*

SEN. I. C. CRAWFORD	* REP. NORWOOD BRYAN, JR.
SEN. FRED FOLGER, JR.	REP. DAVID W. BUMGARDNER, JR.
SEN. PHILIP P. GODWIN	REP. CLAUDE DEBRUHL
SEN. JOHN T. HENLEY	REP. LISTON B. RAMSEY
SEN. H. EDWARD KNOX	REP. H. HORTON ROUNTREE
SEN. KENNETH C. ROYALL, JR.	REP. WILLIAM T. WATKINS

## LEGISLATIVE SERVICES STAFF

CLYDE L. BALL.....	Legislative Services Officer
WILLIAM H. POTTER, JR.....	Director of Research
MERCER DOTY.....	Director of Fiscal Research
BROOKS W. POOLE.....	Legislative Building Superintendent

\*Resigned from Commission April 13, 1974. Replaced by Rep. James C. Green



## CONSTITUTION

The full text of the Constitution of North Carolina is set out in the first volume of the 1973 Session Laws for the First Session 1973. The Constitution has not been amended since the publication of the first volume, and the text is not reproduced in this volume of the 1973 Session Laws for the Second Session 1974.



SESSION LAWS  
OF THE  
STATE OF NORTH CAROLINA

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1973 GENERAL ASSEMBLY  
SECOND SESSION 1974

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H. B. 1187                      CHAPTER 827

AN ACT TO AMEND RULE 37 OF THE RULES OF CIVIL PROCEDURE TO ALLOW THE IMPOSITION OF EXPENSES, UPON FAILURE TO ADMIT PURSUANT TO RULE 36, WITHOUT REQUIRING THE ESTABLISHMENT OF THE TRUTH OF THE MATTER IN QUESTION BY THE VERDICT OF A JURY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1A-1 of the General Statutes, Rule 37, is hereby amended by deleting paragraph (c) thereof, and substituting therefor the following:

“(c) Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney’s fees. The court shall make the order unless it finds that:

- (1) the request was held objectionable pursuant to Rule 36(a), or
- (2) the admission sought was of no substantial importance, or
- (3) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or
- (4) there was other good reason for the failure to admit.”

**Sec. 2.** This act shall be in full force and effect on and after January 1, 1975, and shall apply to actions and proceedings pending on that date as well as to actions and proceedings commenced on and after that date.

In the General Assembly read three times and ratified, this the 28th day of January, 1974.

H. B. 1185

**CHAPTER 828**

AN ACT TO AMEND RULE 30 OF THE RULES OF CIVIL PROCEDURE TO ALLOW THE JUDGE, IN HIS DISCRETION, TO SHORTEN THE TIME OF NOTICE REQUIRED FOR THE TAKING OF A DEPOSITION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1A-1 of the General Statutes, Rule 30, is hereby amended by deleting the period at the end of the final sentence of Rule 30(a), and adding the following:

“, unless a judge in his discretion, after application with one-day minimum notice to other parties, shortens the time hereinabove set forth.”

**Sec. 2.** This act shall be in full force and effect on and after January 1, 1975, and shall apply to actions and proceedings pending on that date as well as to actions and proceedings commenced on and after that date.

In the General Assembly read three times and ratified, this the 28th day of January, 1974.

S. B. 546

**CHAPTER 829**

AN ACT AUTHORIZING THE CITY OF OCEAN ISLE BEACH IN BRUNSWICK COUNTY TO ESTABLISH AN AIRPORT COMMISSION VESTED WITH THE POWER OF EMINENT DOMAIN AND THE POWER TO ISSUE BONDS OR OTHER SECURITIES OR OBLIGATIONS FOR THE PURPOSE OF PROVIDING FUNDS FOR THE ACQUISITION OF LANDS, CONSTRUCTION AND OPERATION OF AN AIRPORT FACILITY TOGETHER WITH ALL POWERS AS SET OUT IN CHAPTER 63 OF THE GENERAL STATUTES OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created a board to be known as the Airport Commission of Ocean Isle Beach, which board is hereby constituted a body politic and corporate. The board shall be comprised of three members, all of whom shall be experienced businessmen with no qualifications as to residence. The membership of the board shall be named by the governing body of the Town of Ocean Isle Beach and shall be selected initially to serve one, two, and three year terms respectively beginning on July 1, 1973. All subsequent appointments shall be for terms of three years and until the successor is selected and qualifies. The governing body of the town shall name the chairman. The members of the board shall receive no compensation, per diem or otherwise, but shall be allowed and paid actual expenses incurred in the transaction of business and at the instance of the Commission.

**Sec. 2.** The Airport Commission shall, in addition to the powers conferred in Chapter 63 of the General Statutes of North Carolina, have the following powers:

(1) To sue and be sued in the name of the Airport Commission; to acquire by purchase and condemnation, and to hold lands for the purpose of constructing, maintaining or operating the airport facilities hereinafter referred to; and make such contracts and to hold such personal property as may be necessary for the exercise of the powers of the Airport Commission.

(2) To issue bonds or other securities or obligations for the purpose of providing funds for such acquisition of lands, construction, maintenance or operating the airport facilities, said bond, if and when issued, shall be denoted "Airport Commission Bonds of Ocean Isle Beach" and shall be issued in such form and denominations and shall mature at such time or times not exceeding fifty (50) years after their date and shall bear such rate of interest not exceeding six percent (6%) per annum payable either annually or semi-annually as the Airport Commission may determine; provided, however, that neither the Airport Commission Board, nor the individual members thereof, shall have authority to pledge the credit of or contract for or on behalf of the Town of Ocean Isle Beach. The bonds shall be signed by the Chairman of the Airport Commission Board and the corporate seal affixed or impressed on each bond and attested by the secretary to the Board. The coupons to be attached to said bond shall bear the facsimile signature of the Chairman officiating at the time of issuance of the bond. Such bonds or notes issued for the purpose or purposes above set out may be sold at private sale for not less than par to any U.S. governmental agency with the approval of the governing body of the Town of Ocean Isle Beach, but if such private sale is not made to a U.S. governmental agency, then the sale shall be made under the provisions of the Municipal Finance Act of the State with the approval of the local government board and commission.

Bonds and notes issued under this act shall be exempt from all State, county or municipal taxes or assessments, direct or indirect, general or special, and the interest paid on said bonds or notes shall not be subject to taxation as income, nor shall said bonds or notes, or coupons of said bonds, be subject to taxation when constituting part of the surplus of any bank, trust company or other corporation.

(3) Any resolution or resolutions authorizing any bonds may contain provisions which shall be part of the contract with the holders of the bonds, as to:

(A) Pledging any and all revenue received by the Airport Commission in the operation of the airport facilities after operational costs.

(B) The rates of any charges by the Commission for the use of the facilities of the Commission and the use and disposition of such revenues.

(C) The setting aside of reserve and sinking funds and the rate and disposition thereof.

(D) Limitations on the purposes to which the proceeds of sale of any issue of bonds to be issued may be applied.

(E) Limitations on the issuance of additional bonds, and

(F) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given.

(4) To do all things necessary or convenient to carry out all powers expressly given in this act.

**Sec. 3.** It is hereby declared to be the policy of the State of North Carolina to promote, encourage and develop air transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor air transportation, and that Ocean Isle Beach is hereby declared to be an area which should be developed in connection with the interior of the State of North Carolina and other states, and that it is hereby declared

and deemed by the State of North Carolina necessary and desirable and in the public interest of the entire State that there shall be established air transportation facilities in areas of Ocean Isle Beach in accordance with the provisions of the Acts of Congress in the United States and the laws of North Carolina. The Airport Commission shall be regarded as performing an essential governmental function in undertaking the construction, maintenance, and operation of the facilities and in carrying out the provisions of this act in relation thereof, and shall be required to pay no taxes or assessment upon any of the properties acquired or used by it for such purposes. This section shall not take effect unless and until said Airport Commission is organized and acting, and unless and until bonds or other securities as provided in section two (2) are issued.

**Sec. 4.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of January, 1974.

## S. B. 429

## CHAPTER 830

### AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF CAROLINA BEACH BY A REFERENDUM OF THE PEOPLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** (a) The Municipal Board of Elections for the Town of Carolina Beach, New Hanover County, is hereby authorized to call and conduct a special election on such date as it shall determine for the purpose of submitting to the registered voters for the area hereinafter described, the question whether or not that area described hereinafter shall hereafter constitute the corporate limits of the Town of Carolina Beach. On the election day, the polls shall be open from 6:30 a.m. until 7:30 p.m. The Municipal Board of Elections for the Town of Carolina Beach in conducting the election required to be held herein shall follow the procedure as outlined in this act and Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina (Volume III D 1972 Replacement) relating to municipal elections where not in conflict with this act.

(b) The Municipal Board of Elections for the Town of Carolina Beach shall determine from the voter registration records of the New Hanover County Board of Elections those persons, who are registered voters, presently residing within the area proposed to become the corporate limits of the Town of Carolina Beach under the provisions of this act.

The Municipal Board of Elections for the Town of Carolina Beach shall secure from the New Hanover County Board of Elections a duplicate registration certificate on all of the voters described hereinbefore, and each such certificate shall be marked, "Verified from County Records", and all such voters shall be eligible to vote in such election. The Town of Carolina Beach shall reimburse New Hanover County for all actual expense by New Hanover County in effecting such verification.

(c) Not later than 30 days prior to the date on which the registration books are required to be closed, the Municipal Board of Elections for the Town of Carolina Beach shall cause public notice to be published in a newspaper having general circulation in the area of New Hanover County, North Carolina,

described in this bill, and such Board shall cause to be posted at such public places as the Board may choose, a notice stating the time, the polling place, and the purpose of the special election; the names of the registrar and judges of election; and the dates, hours, and places of registration.

(d) In the special election, those voters who favor the extension of the corporate limits of the Town of Carolina Beach as described hereinafter shall vote a ballot upon which shall be printed the words: "FOR New Corporate Limits of the Town of Carolina Beach", and those voters who are opposed to the extension of the corporate limits of the Town of Carolina Beach shall vote a ballot upon which shall be printed the words: "AGAINST New Corporate Limits of the Town of Carolina Beach".

**Sec. 2.** If a majority of the votes cast in such special election shall be cast "AGAINST New Corporate Limits of the Town of Carolina Beach", then the limits of the Town shall remain as they are on the effective date of this act until changed pursuant to general law or special act.

**Sec. 3.** If a majority of the votes cast in such special election shall be cast "FOR New Corporate Limits of the Town of Carolina Beach", then the corporate limits of the Town of Carolina Beach shall be as described in Section 4 of this act and as filed with the Municipal Board of Elections for the Town of Carolina Beach, from and after the date upon which a certificate of election shall have been issued by the Chairman of the Municipal Board of Elections of the Town of Carolina Beach in accordance with G.S. 163-301.

**Sec. 4.** If a majority of votes cast in the special election described in Sections 1, 2 and 3 of this act shall be cast "FOR New Corporate Limits of the Town of Carolina Beach", then the corporate limits of the Town of Carolina Beach shall be as follows until changed in accordance with law: BEGINNING at an iron stake at low-water mark of the Atlantic Ocean at a line between what is known as Wilmington Beach and Carolina Beach on the Atlantic Ocean, and running thence northwardly along the low-water mark of the Atlantic Ocean to a point (2,165) feet north of the northeast corner of Lot No. 10 in Block 27, as described on map of Carolina Beach, and running thence westwardly three hundred and fifty (350) feet to Myrtle Grove Sound, running thence westwardly across Myrtle Grove Sound to the western shore of said Myrtle Grove Sound to a stone 'US', said stone being located at the southeast intersection of Myrtle Grove Sound and Snow's Cut as shown in Map Book 3, page 19, in the office of the Register of Deeds of New Hanover County, running thence southwardly along said western shore of said Myrtle Grove Sound at low-water mark to the point where the northern line of Goldsboro Avenue intersects the western side of Myrtle Grove Sound at low-water mark as shown on a map of Carolina Beach as recorded in the records of New Hanover County, Map Book 2, page 106, as prepared by J. L. Becton, Civil Engineer, January - September, 1913; thence westwardly along a northern line of Goldsboro Avenue and C. A. Baches's line and a western extension thereof to the northern line of Harper Avenue; thence northwestwardly along the northern line of said Harper Avenue to Ocean City Boulevard, also known as Dow Road and Secondary Road No. 1534; and running thence southwardly along the western right-of-way of said Dow Road, formerly Ocean City Boulevard or Federal Point Road, to the southern right-of-way of Sumter Avenue; thence east down the southern right-of-way of Sumter Avenue, approximately 960 feet to the northwest corner of lot one, in block 116 of Carolina Beach, said point being where the U. S. Army Sunny Point Terminal

buffer zone property line intersects Sumter Avenue; and running thence southwardly along said Sunny Point Terminal buffer zone property line to intersection with the northern property line of the Eythl-Dow Chemical Company, as recorded in Record Book 794, page 146, New Hanover County Register of Deeds office; and running thence south 87 degrees, 44 minutes east approximately 2,400 feet to the Atlantic Ocean; and running thence northwardly along the low-water mark of the Atlantic Ocean to the point of beginning at the line between what is known as Wilmington Beach and Carolina Beach.

**Sec. 5.** The town shall from and after the effective date of the annexation, provide within the annexed area all town services, other than utility services, on substantially the same basis and in the same manner as such services are provided within the rest of the town. The town shall provide for extension of major water mains and major sewer lines into the area annexed, if necessary, so that property owners therein will be able to secure public water and sewer services according to the policies in effect in the town for extending water and sewer lines to individual lots or subdivisions. If the town must, at its own expense, extend its major water mains and major sewer lines into the area before property owners therein can, according to town policies, make connection to such lines, then the town shall cause construction of such mains and lines to begin within one year following the effective date of the annexation.

**Sec. 6.** The property newly annexed by this act shall not be subject to ad valorem taxation by the Town of Carolina Beach for fiscal year 1974-75, but it shall be subject to ad valorem taxation by the Town of Carolina Beach for fiscal year 1975-76 and succeeding fiscal years.

**Sec. 7.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of January, 1974.

## H. B. 156

## CHAPTER 831

### AN ACT TO REQUIRE THE IDENTIFICATION OF ALL DRUGS BY LABEL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-134(12) is hereby amended by striking out the period at the end of said section, and inserting in lieu thereof a comma, and by adding thereto the following:

“and, unless otherwise directed by the prescriber of such drugs, the name and strength.

**Sec. 2.** Enforcement of the provisions of this act shall be the responsibility of the North Carolina Board of Pharmacy and violation of such provisions shall constitute grounds for disciplinary action by such Board.

**Sec. 3.** This act shall become effective on June 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of February, 1974.

H. B. 883

**CHAPTER 832**

AN ACT TO AMEND CHAPTER 93, SESSION LAWS OF 1963, THE SAME BEING THE CHARTER OF THE TOWN OF SUNSET BEACH TO REPEAL THE TAX RATE LIMITATION IMPOSED THEREBY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 93, Session Laws of 1963, the same being the charter of the Town of Sunset Beach, is hereby amended by striking therefrom the following: “,but in no event shall the tax rate imposed be in excess of one dollar (\$1.00) per one hundred dollars (\$100.00) valuation of property”.

**Sec. 2.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of February, 1974.

H. B. 1387

**CHAPTER 833**

AN ACT TO PROVIDE THAT PERSONS RESIDING IN A CITY ADMINISTRATIVE SCHOOL UNIT SHALL NOT PARTICIPATE IN ELECTIONS FOR MEMBERS OF THE ROCKINGHAM COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** No person who resides within a city administrative school unit of any municipality in Rockingham County shall be eligible to vote in any election for members of the Rockingham County Board of Education or be eligible for election or appointment to the County Board of Education.

**Sec. 2.** This act shall not disqualify any of the present members of the Rockingham County Board of Education from completing their term of office.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of February, 1974.

H. B. 1370

**CHAPTER 834**

AN ACT TO AUTHORIZE A SPECIAL ELECTION IN THE TOWN OF ENOCHVILLE TO ASCERTAIN WHETHER THE TOWN CHARTER SHOULD BE REPEALED.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Rowan County Board of Elections shall hold and conduct a special election on May 7, 1974, in the Town of Enochville on the question of whether the Town Charter shall be repealed. All qualified voters residing within the corporate limits of the Town shall be eligible to vote. No absentee ballots shall be permitted. The election shall be conducted in accordance with applicable laws, rules and regulations governing elections as provided in Chapter 163 of the General Statutes.

The issue on the ballot shall be “For Repeal of the Town Charter”; “Against Repeal of the Town Charter”.

If a majority of those voting favor repeal of the Town Charter, then upon the certification of the results, Chapter 185, Public Laws of 1876-77; Chapter



Columbus County Board of Education by the qualified voters of the county, excluding those residing in the Whiteville School Administrative Unit.

**Sec. 3.** The resolution shall not be effective unless adopted 30 days prior to the last day that Notice of Candidacy must be filed for candidates desiring to run in the Primary election. Provided that if the resolution is adopted by March 15, 1974, the candidates shall be permitted to file until 12:00 noon on April 1, 1974, thereafter the first sentence shall control. The resolution shall be filed with the County Board of Elections and the State Board of Elections, and shall be published in a newspaper having general circulation in the county at least once a week for two weeks immediately after its adoption.

**Sec. 4.** Upon the adoption of the resolution as provided herein, one member of the Columbus County Board of Education shall be elected from each of the five districts described in the resolution. Only qualified voters who reside in the district shall be eligible to office. In the election, the candidate from each district receiving the highest number of votes shall be elected. The candidates shall be elected by the voters of the entire county, excluding those residing in the Whiteville School Administrative Unit. Vacancies occurring for any reason shall be filled by the appointment of a qualified voter residing in the district where the vacancy occurred. Provided, that the terms of office of the incumbent members of the Board of Education shall not be terminated by this act.

**Sec. 5.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1974.

**H. B. 1416 CHAPTER 837**

**AN ACT TO INCREASE THE NUMBER OF COUNTY COMMISSIONERS IN SCOTLAND COUNTY AND TO PROVIDE FOR THEIR ELECTION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 400 Public-Local Laws of 1927 is hereby amended by rewriting Section 1 thereof to read as follows:

“Section 1. The Board of County Commissioners of Scotland County shall consist of seven members who shall be nominated and elected as herein provided.”

**Sec. 2.** Section 3 of Chapter 400 Public-Local Laws of 1927, is rewritten to read as follows:

“Sec. 3. For the purpose of nominating and electing members of the Board of County Commissioners the county is divided into five districts as follows:

- (a) District number one composed of Spring Hill Township.
- (b) District number two composed of Stewartville Township.
- (c) District number three composed of Laurel Hill Township.
- (d) District number four composed of Williamson Township.
- (e) District number five composed of the entire county.

One Commissioner shall be elected from districts number one, three, four and five, and three Commissioners shall be elected from district number two.

All candidates shall be nominated and elected by the qualified voters of the entire county, but all candidates shall be residents of the district from which they seek nomination and election.”

**Sec. 3.** Section 4 of Chapter 400 Public-Local Laws of 1927 is rewritten to read as follows:

“Sec. 4. The five incumbent members of the Board of County Commissioners shall serve the term of office for which elected. At the expiration of their current terms, their successors shall be elected for terms of four years. Beginning with the primary and general election to be held in 1974, the number of Commissioners in district number two (Stewartville Township) shall be increased to three. The two additional Commissioners shall be nominated and elected in the 1974 primary and general election. The additional candidate in district number two receiving the highest number of votes in the 1974 election shall be elected for a term of four years, and the additional candidate receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as their terms expire, their successors shall be elected for terms of four years.”

Sec. 4. The Scotland County Board of Commissioners is hereby authorized to appoint two additional Commissioners from district number two who shall serve until the two additional Commissioners to be nominated and elected in 1974 shall take office in December, 1974.

Sec. 5. Section 2 of Chapter 400 Public-Local Laws of 1927 and all laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1974.

S. B. 541

CHAPTER 838

AN ACT TO AMEND G.S. 7A-133 TO AUTHORIZE AN ADDITIONAL DISTRICT COURT JUDGE IN VARIOUS DISTRICT COURT DISTRICTS.

*The General Assembly of North Carolina enacts:*

Section 1. G.S. 7A-133 is amended; effective the first Monday in December, 1974, to authorize an additional district court judge in the eighth, tenth, twelfth, thirteenth, twenty-fifth and twenty-sixth district court districts, so that the quota of district court judges for these districts in the table in G.S. 7A-133, effective the first Monday in December, 1974, will read as follows:

District	Judges
8	5
10	6
12	5
13	3
25	5
26	8

Sec. 2. Candidates for the additional judgeships created in Section 1 of this act shall run in the primary and general election in 1974.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of February, 1974.

## S. B. 144

## CHAPTER 839

AN ACT TO PROVIDE FOR THE TAXATION OF THE REAL AND PERSONAL PROPERTY OF HOSPITAL, MEDICAL, AND DENTAL SERVICE CORPORATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 57-14 is rewritten to read as follows:

“§ 57-14. *Taxation.*—For the purpose of raising revenues sufficient to defray the expenses of the administration of this Chapter, and in lieu of all other State-levied taxes, an annual franchise or privilege tax is hereby levied upon every corporation subject to the provisions of this Chapter at the rate of one third of one percent of the gross annual collections from membership dues exclusive of receipts from cost plus plans. The real and personal property of such corporations is taxable under the provisions of Subchapter II of Chapter 105 of the General Statutes.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 7th day of February, 1974.

## S. B. 709

## CHAPTER 840

AN ACT TO AMEND G.S. 41-2.1 (b) (4) TO MAKE ITS PROVISIONS CONSISTENT WITH G.S. 28-68.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 41-2.1 (b) (4) is amended in line four by deleting “one thousand dollars (\$1,000.00),” and inserting in lieu thereof “two thousand dollars (\$2,000.00).”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1974.

## S. B. 917

## CHAPTER 841

AN ACT TO PROVIDE FOR PARTISAN ELECTIONS IN THE CITY OF CHARLOTTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Beginning with the regular municipal election for city officials to be held in the City of Charlotte after January 1, 1974, the Mayor and members of the City Council shall be nominated in a partisan primary and shall be elected in a partisan election. The primary and election shall be held at the time specified in G.S. 163-279(a)(2), and the primary and election shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes, notwithstanding any provisions of Chapter II, Subchapter A of Chapter 713, Session Laws of 1965, to the contrary.

**Sec. 2.** All provisions of Chapter II, Subchapter A of Chapter 713, Session Laws of 1965, and all other laws and clauses of laws in conflict with this act are repealed to the extent of such conflict.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1974.

S. B. 969

**CHAPTER 842**

**AN ACT TO AMEND THE CHARTER OF THE TOWN OF MARSHVILLE  
RELATING TO THE CORPORATE LIMITS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 313, Private Laws of 1913, as amended by Chapter 652, Session Laws of 1973, is hereby amended by deleting the first sentence thereof, which reads as follows:

“That the corporate limits of said town shall be and remain as they are now established by former actions of the General Assembly of North Carolina.”

**Sec. 2** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1974.

H. B. 608

**CHAPTER 843**

**AN ACT TO PERMIT REVOCATION OF INSTALLMENT BASIS  
ELECTION FOR INCOME TAX PURPOSES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-142(f), as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby amended by:

(a) adding a new subdivision (4), to read as follows:

“(4) An election under subdivision (1) to report taxable income on the installment basis may be revoked by filing a notice of revocation, in such manner as the Secretary of Revenue prescribes, at any time before the expiration of three years following the date of the filing of the tax return for the year of change. If such notice of revocation is timely filed:

a. the provisions of subdivision (1) shall not apply to the year of change or for any subsequent year;

b. the statutory period for the assessment of any deficiency for any taxable year ending before the filing of such notice, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of two years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such two-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment; and

c. if refund or credit of any overpayment, resulting from the revocation of the election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within one year from such date, by the operation of any law or rule of law, refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within one year from such date. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.

“(5) If a taxpayer revokes under subdivision (4) of this subsection an

election under subdivision (1) of this subsection to report taxable income on the installment basis, no election under subdivision (1) of this subsection may be made, except with the consent of the Commissioner of Revenue, for any subsequent taxable year before the fifth taxable year following the year with respect to which such revocation is made.”

**Sec. 2.** This act shall be effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of February, 1974.

## H. B. 1035                      CHAPTER 844

AN ACT TO AMEND G.S. 90-89(a) BY ADDING THE CONTROLLED SUBSTANCE PROPIRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-89(a) is hereby rewritten in part as follows: “41. Propiram 42. Racemoramide 43. Trimeperidine.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1241                      CHAPTER 845

AN ACT TO PROVIDE FOR A NONPARTISAN ELECTION OF THE POLK COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Polk County Board of Education is composed of five members. In the election held in 1972 pursuant to G.S. 115-18 and G.S. 115-19, three members were elected for four-year terms expiring in 1976 and two members were elected for two-year terms expiring in 1974.

Effective for the elections to be held in 1974 and biennially thereafter, Polk County is divided into five districts for the purpose of electing members of the Board of Education, as follows:

District I comprises Columbus Township;

District II comprises Cooper’s Gap Township;

District III comprises Green Creek Township;

District IV comprises Saluda Township; and

District V comprises White Oak Township.

One member of the Board of Education shall reside in and represent each district, but all candidates shall be elected by the voters of the county at large. In the 1974 election and quadrennially thereafter, members shall be elected to represent District IV and District V. In the 1976 election and quadrennially thereafter, members shall be elected to represent Districts I, II, and III. The candidate for each district seat receiving the highest number of votes shall be elected.

Nothing in this act shall affect the term of office of any member of the Board of Education incumbent on the effective date of this act, nor shall this act apply to vacancies occurring before the expiration of the term of office of members incumbent on the effective date hereof.

CHAPTER 845      Session Laws—1973

**Sec. 2.** Any person appointed to fill a vacancy occurring in any district seat on the board shall be a resident of the district. If any member elected to a district seat ceases to reside in the district during his term of office, the remaining members of the board may declare the office vacant and proceed to fill the vacancy.

**Sec. 3.** Except as modified by this act, Article 5 of Chapter 115 of the General Statutes shall govern the election of the Polk County Board of Education.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

H. B. 1378      **CHAPTER 846**

AN ACT TO ALLOW THE SUPERINTENDENT OF THE MAXTON CITY SCHOOL ADMINISTRATIVE UNIT TO RESIDE IN A COUNTY OTHER THAN ROBESON.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Superintendent of the Maxton City Schools may reside in a county other than Robeson so long as the Superintendent shall reside in North Carolina.

**Sec. 2.** G.S. 115-54, as it conflicts with this act, is hereby repealed as it applies to the Maxton City School Administrative Unit.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

H. B. 1400      **CHAPTER 847**

AN ACT TO AMEND CHAPTER 350 OF THE SESSION LAWS OF 1963 TO PROVIDE STAGGERED TERMS OF FOUR YEARS FOR MEMBERS OF THE HERTFORD COUNTY BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 350, Session Laws of 1963, is hereby amended by rewriting Section 4 to read:

“Sec. 4. The nominees from each district shall be voted upon in the general election by all of the qualified voters of Hertford County. In the general election to be held in 1974, the candidate from District One receiving the highest number of votes shall be elected for a term of four years and the candidate from District One receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as their terms expire, their successors shall be elected for terms of four years.

In the general election to be held in 1976, the candidate from District Two and from District Three receiving the highest number of votes shall be elected for a term of four years. The candidate from District Two receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as their terms expire, their successors shall be elected for terms of four years each.”

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1430                      CHAPTER 848

AN ACT TO AMEND G.S. 47-30(k) TO BRING UNION COUNTY UNDER UNIFORM MAPPING REQUIREMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-30 is hereby amended by deleting the word "Union" in subsection (k).

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1436                      CHAPTER 849

AN ACT TO STRIKE EXTRANEIOUS PROVISIONS REGARDING BIRTH REGISTRATION CARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 48-29(b) as the same now appears in the 1966 Replacement Volume 2A of the General Statutes is hereby amended to strike out the word "race," after the word "certificate" and before the word "sex" in line 6 of such subsection.

**Sec. 2.** G.S. 48-29 as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended by striking out "except as otherwise provided in subsection (d)" in the fourth sentence of subsection (a) thereof and by repealing subsection (d) thereof.

**Sec. 3.** G.S. 48-36(e) as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended by deleting "except G.S. 48-29(d) relating to children born outside the State" after "G.S. 48-29" where this language appears at the end of G.S. 48-36(e).

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1445                      CHAPTER 850

AN ACT TO AMEND THE CHARTER OF THE CITY OF RALEIGH RELATING TO THE CIVIC CENTER AND AN AMENDMENT TO THE CIVIC CENTER ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Raleigh (Chapter 1184 of the Session Laws of North Carolina, 1949, as amended) hereby be amended and same is amended as follows:

(a) Paragraph (19) of Section 22 is amended by inserting therein after the words "City Hall," the new words "Civic Center,".

**Sec. 2.** Chapter 992 of the Session Laws of North Carolina, 1971, is hereby amended by adding thereto a new section to be known as Section 2A, as follows:

“Sec. 2A. The City of Raleigh or the Raleigh Civic Center Authority, if the Authority is so authorized by the Raleigh City Council, shall have the right to exercise the power of eminent domain and to acquire by condemnation in the same manner as is provided for by Article 2 of Chapter 40, or by Article 11 of Chapter 160A, of the General Statutes of North Carolina, or the procedures of any other general law, charter, or local act applicable to the City, any and all lands, property and interests in property necessary or useful for the construction, establishment, maintenance or operation of the Civic Center.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1452

## CHAPTER 851

AN ACT TO AMEND CHAPTER 26 OF THE PRIVATE LAWS OF 1937  
RELATING TO THE WILMINGTON FIREMEN'S PENSION FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivision (2) of Section 7 of Chapter 26 of the Private Laws of 1937, as amended, is hereby amended by adding the following paragraph at the end thereof:

“Notwithstanding any other provisions of law, a member of the Fire Department of the City of Wilmington may include and count years of service in the Police Department of the City of Wilmington immediately preceding transfer to the Fire Department for the purpose of computing 25 or more consecutive years of service under the provisions of this section.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1459

## CHAPTER 852

AN ACT PROVIDING FOR THE NOMINATION AND ELECTION OF  
THE SANFORD-LEE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Sanford-Lee County Board of Education shall consist of seven members, to be elected by the voters of the county on a nonpartisan basis as herein provided, who shall serve for a term of four years. The term of office of each member shall begin on the first Monday in December, next succeeding his election, and shall serve until a successor has been elected and qualified.

**Sec. 2.** The Sanford-Lee County Board of Education shall initially consist of the following members: J. M. Auman, Mary Alice Holmes, M. Cade Covington, Nan G. Howard, Paul J. Barringer, Jr., Robert W. Dalrymple and J. Glenn Edwards.

J. M. Auman, Nan G. Howard and Robert W. Dalrymple shall hold their offices until the first Monday in December, 1974, or until their successors are elected and qualified as provided for in this act. The remaining members of the Sanford-Lee County Board of Education shall continue to hold their offices until the first Monday in December, 1976, or until their successors are elected and qualified as provided for in this act.

**Sec. 3.** At the primary election for county officers held for Lee County in 1974, there shall be elected three members of the Sanford-Lee County Board of Education. At the primary election for county officers held for Lee County in 1976, there shall be elected four members of the Sanford-Lee County Board of Education. Thereafter, biennially there shall be elected members of the Sanford-Lee County Board of Education to succeed the members whose terms next expire.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## S. B. 405

## CHAPTER 853

AN ACT TO AMEND G.S. 39-7.1 TO PROVIDE THAT NO CONVEYANCE BY A MARRIED WOMAN PRIOR TO JUNE 8, 1965, SHALL BE INVALID FOR THE REASON THAT THE INSTRUMENT WAS NOT ALSO EXECUTED BY HER HUSBAND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 39-7.1 is hereby rewritten to read as follows:

“§ 39-7.1. *Certain instruments affecting married woman's title not executed by husband validated.*—No conveyance, power of attorney, or other instrument affecting the estate, right or title of any married woman in lands, tenements or hereditaments which was executed by such married woman prior to June 8, 1965, shall be invalid for the reason that the instrument was not also executed by the husband of such married woman.”

**Sec. 2.** This act shall not apply to pending litigation.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

## H. B. 1409

## CHAPTER 854

AN ACT TO AMEND CHAPTER 36, SESSION LAWS OF 1965, THE SAME BEING THE CHARTER OF THE TOWN OF FARMVILLE, PITT COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 36, Session Laws of 1965, is hereby rewritten to read as follows:

“Sec. 3. *Corporate Boundaries.*—The Corporate boundaries of the Town of Farmville shall be as follows:

BEGINNING at the intersection of the center of North Main Street and the center line of North Contentnea Street and runs thence S 22-14 E 1,024.9 feet; thence S 67-46 W 188.9 feet; thence S 13-45 E 4325 feet, more or less, to a point on the south side of the Norfolk Southern Railroad right-of-way; thence along said right-of-way N 73-05 W 2700 feet, more or less, to intersection with the eastern boundary of Clairmont sub-division; thence along Clairmont sub-division as follows: S 17-17 W 206.2 feet, S 19-17 W 269 feet, S 24-33 E 58 feet; S 07-31 E 99.4 feet, S 10-35 W 123.4 feet; S 29-53 W 128.7 feet; S 38-35 W 87 feet; S 42-25 W 151 feet; S 45-30 W 295.3 feet, to the northern boundary of Prince Road; thence along Prince Road S 52 E 81 feet; thence S 51-09 W

307.1 feet to a stake on the north side of Davis Street extended, corner; thence N 45-41 W 619.8 feet; thence N 45-21 W 1485.6 feet to the eastern right-of-way of the old abandoned Norfolk Southern right-of-way; thence along said abandoned right-of-way as follows: S 43-47 W 769.4 feet to point of curve, thence along said right-of-way with a 2 degree curve 75 feet to a point on the northern right-of-way of U.S. Highway #264; thence N 35-54 E 367.9 feet; thence S 54-34 E 52 feet; thence N 25-12 E 405 feet, more or less, to the western boundary line of East Carolina Railroad; thence along said western right-of-way N 01-07 E 980 feet, more or less; N 75-15 W 493.6 feet; N 84-12 W 48.4 feet; thence N 18-36 E 925.2 feet to southern right-of-way of Perry Street; thence with said street right-of-way N 64-45 W 751.9 feet, to the eastern right-of-way of Fields Street extended; thence along the eastern right-of-way of Fields Street extended, N 45-45 E 769.4 feet to the southern right-of-way of Wallace Street extended; thence N 85-10 W 774.3 feet to a stake cornering; thence N 00-51 E 432.4 feet to center of Norfolk Southern Railroad; thence N 00-51 E 1773.4 feet to the northern boundary of Pitt and Greene right-of-way cornering; thence with said right-of-way N 48-01 E 628.1 feet to a stake cornering; thence N 88-10 W 727.2 feet, to the southwest corner of Westwood; thence along the western line of Westwood sub-division N 11-50 E 1048 feet to the northwestern corner of Westwood Sub-division; thence continuing with said sub-division line S 70-29 E 714.3 feet to a stake, cornering; thence N 44-53 E 605.6 feet to a point on the north side of Church Street extended; thence S 45-07 E 575 feet, more or less, to a stake, cornering; thence N 50-18 E 550 feet, more or less, to a point on the south side of Wilson Street extended; thence S 46-23 E 350 feet, more or less, to the State Highway right-of-way line; thence N 44-32 E 541.7 feet to a stake on the west side of East Carolina Railroad; thence N 11-11 E 180 feet, more or less; thence along said right-of-way a curve 2550 feet, more or less, to a corner; thence N 64-45 E 740 feet, more or less, to a corner; thence S 25-15 E 350 feet to the northeast corner of the Richard Harris lot; thence with the Harris line S 64-45 W 300 feet to a corner; thence S 25-15 E 832 feet to a concrete marker; thence S 60-45 E 3500 feet, more or less, 600 feet, more or less, to a point of tangency; thence S 31-47 W 720 feet, more or less, to a road or street; thence along the northern boundary of said road or street S 79-54 E 396.1 feet; thence S 10-06 W 60 feet; thence S 32-28 W 262.1 feet; thence N 81-02 W 279.7 feet; S 13 W 210 feet; thence S 81-02 E 208.9 feet; thence S 09-14 W 315 feet; thence S 71-08 E 96 feet; thence S 23-58 W 241.9 feet; thence S 24 W 212.8 feet; thence S 36-40 W 221.5 feet; thence S 51-52 W 115 feet; thence S 38-08 W 166.2 feet; thence S 51-15 E 712.5 feet to a point on the south side of U.S. Highway #264, Farmville by-pass; thence crossing said Highway S 38-45 W 622.3 feet; thence N 51-15 W 319.7 feet; thence S 86-35 W 250 feet to a point on the east side of U.S. Highway #258; thence crossing said highway, N 87-41 W 100.8 feet to the western boundary of said highway; thence N 81-16 W 334.2 feet to the western boundary of East Carolina Railroad right-of-way; thence along western boundary of East Carolina Railroad right-of-way, N 01-07 E 1,056 feet to a point on the west side of the Norfolk Southern abandoned right-of-way; thence along the said right-of-way S 31-47 W 56 feet; N 68-22 W 277 feet; N 76-39 W 169.2 feet; N 50-51 W 118 feet; thence N 57-58 W 3,914.41 feet to a point, cornering and running S 11-56 W 1,549.15 feet to a point; thence cornering and running N 67-57 W 356.81 feet to a point in the center of State Road #1143;

thence S 22-03 W down the center of said road 525 feet to a point in the middle of said road; thence N 67-57 W 319.2 feet to a point; thence N 29-23 W 81.37 feet to a point; thence N 72-29 W 120 feet to a point in the T. W. Lang Heirs line; thence N 17-31 E 2,432.74 feet to a point in the center of U.S. Highway #264; thence S 64-45 E 695.2 feet to a point in the center of said Highway #264 (known as the Old Plank Road and the Marlboro Road) thence S 61-36 E 1,164.5 feet to a point in the center of said Highway; thence S 56-41 E 2,766.3 feet to a point in the center of said Highway; thence N 33-15 E thence N 26-28 E 313.6 feet; thence S 59-10 E 731.1 feet; thence S 23-23 E 485.7 feet; thence S 60-45 E 527.6 feet to the point of beginning.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of February, 1974.

**S. B. 540 CHAPTER 855**

AN ACT TO AMEND G.S. 7A-41 TO AUTHORIZE AN ADDITIONAL RESIDENT SUPERIOR COURT JUDGE IN VARIOUS JUDICIAL DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-41 is amended, effective January 1, 1975, to authorize an additional resident superior court judge in the seventh, tenth, fourteenth, twenty-fifth, twenty-sixth, and twenty-seventh judicial districts, so that the quota of resident superior court judges for these districts in the table in G.S. 7A-41, effective January 1, 1975, will read as follows:

Judicial District	No. of Resident Judges
7	2
10	3
14	2
25	2
26	4
27	3

**Sec. 2.** Candidates for the additional judgeships created in Section 1 of this act shall run in the primary and general election of 1974.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

**S. B. 693 CHAPTER 856**

AN ACT TO AUTHORIZE MUNICIPALITIES BY ORDINANCE TO REGULATE THE USE OF DUNE BUGGIES IN CERTAIN AREAS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 15, Chapter 160A of the General Statutes, is hereby amended by adding a new section to read as follows:

“§ 160A-308. *Regulation of dune buggies.*—A municipality may by ordinance regulate, restrict and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the governing body of the municipality on the foreshore, beach strand and the

barrier dune system. Violation of any ordinance adopted by the governing body of a municipality pursuant to this section is a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

## S. B. 1024

**CHAPTER 857**

AN ACT TO CHANGE THE TERMS OF OFFICE OF COMMISSIONERS OF THE TOWN OF WINTERVILLE, TO EXTEND THE TERM OF ONE SUCH COMMISSIONER, AND TO RATIFY AND CONFIRM THE TOWN ELECTION OF 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 95 of the Private Laws of 1897, as amended, is further amended by rewriting the same to read as follows:

“Sec. 5. The officers of the Town of Winterville shall consist of a Mayor and three Commissioners, whose terms of office shall be four years. In the regular election in 1975 and quadrennially thereafter, two Commissioners shall be elected. In the regular election in 1977 and quadrennially thereafter, a Mayor and one Commissioner shall be elected. Nothing in this section shall be deemed to restrict or prohibit the changing of the number, terms, or method of election of officers of the Town in accordance with the General Statutes.”

**Sec. 2.** Notwithstanding any other provision of law, the term of office of the Commissioner of the Town of Winterville elected in 1971 for a term of three years is hereby extended until the regular election in 1975. Notwithstanding any other provision of law, the election in 1973 of a Mayor and a Commissioner of the Town of Winterville, each for a term of four years, is hereby ratified, confirmed, and in all respects validated.

**Sec. 3.** Chapter 183 of the Session Laws of 1943 is repealed.

**Sec. 4.** This act is effective upon its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

## S. B. 1112

**CHAPTER 858**

AN ACT TO GRANT TO THE COMMISSIONER LIMITED POWER TO EXTEND USE OF REGISTRATION PLATES IN EMERGENCIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** From February 10, 1974, through April 1, 1974, G.S. 20-65 is hereby amended by striking the “comma” appearing immediately after the word “inclusive” and immediately before the word “if” appearing in line seven thereof by inserting the following words and punctuation immediately after the word “inclusive” and immediately before the word “if” in line seven: “or where an emergency exists for such additional time and under such conditions as the Commissioner with the approval of the Governor may prescribe.” After amended, G.S. 20-65 will read:

“§ 20-65. *Expiration of registration.*—Every vehicle registration under this Article and every registration card and registration plate issued hereunder shall

expire at midnight on the 31st day of December of each year: Provided, however, that it shall not be unlawful to continue to operate any vehicle upon the highways of this State after the expiration of the registration of said vehicle, registration card and registration plate during the period between the 31st day of December and the 15th day of February, inclusive, or where an emergency exists for such additional time and under such conditions as the Commissioner with the approval of the Governor may prescribe, if the license plate is registered to the vehicle on which it is being used prior to the 31st day of December.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

S. B. 733

## CHAPTER 859

### AN ACT TO MAKE UNIFORM THE PROCEDURE FOR EMPLOYMENT AND DISMISSAL OF EXECUTIVE SECRETARIES OF COUNTY BOARDS OF ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-35, as it appears in Volume 3D of the General Statutes (1972 Replacement), is amended by deleting it in its entirety and is rewritten to read as follows:

“§ 163-35. *Executive secretary to county board of elections; appointment; compensation; duties; dismissal.*—(a) In the event a vacancy occurs in the office of County Executive Secretary in any of the County Boards of Elections in this State, the County Board of Elections shall submit the name of the person they recommend to fill the vacancy to the Executive Secretary-Director of the State Board of Elections, and the procedure for employment thereafter shall be the same as the procedure hereinafter set out for termination of employment. Persons who shall not serve as an executive secretary include the following:

- (1) Any person who holds any elective public office.
- (2) Any person who is a candidate for any office in a primary or election.
- (3) Any person who holds any office in a political party or committee thereof.
- (4) Any person who is a campaign chairman or finance chairman for any candidate for public office, or who serves on any campaign committee for any candidate.
- (5) Any person who has been convicted of a felony in any court unless such person's citizenship has been restored pursuant to the provisions of Chapter 13 of the General Statutes of North Carolina.

(6) Any person who has been removed by the State Board of Elections following a public hearing at any time.

(7) Any person who is a spouse, child, spouse of a child, sister, or brother of any member of the county board of elections by whom such person would be employed or any person who is a member of said board.

(b) **Termination of Employment.** The County Board of Elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's Executive Secretary. The petition shall clearly state the reasons for termination. Upon receipt of the petition the Executive Secretary-Director shall, within thirty (30) days, render a decision as

to the termination or retention of the board's executive secretary. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless such decision shall be overruled by a majority of the State Board of Elections. In the event the Executive Secretary-Director's decision is to terminate the employment of the executive secretary, the dismissal shall be effective immediately. The employment of any executive secretary presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed.

(c) Compensation. The executive secretary shall be paid compensation as recommended by the county board of elections and approved by the respective boards of county commissioners.

(d) Duties. The executive secretary may be empowered by the county board of elections to perform such administrative duties as might be assigned by the board and the chairman. In addition to any administrative duties the executive secretary shall be authorized to receive applications for registration and in pursuit of such authority shall be given the oath required of all registrars. In addition, the executive secretary may be authorized by the chairman to execute the responsibilities devolving upon the chairman provided such authorization by any chairman shall in no way transfer the responsibility for compliance with the law. The chairman shall remain liable for proper execution of all matters specifically assigned to him by law.

The county board of elections shall have authority, by resolution adopted by majority vote, to delegate to its executive secretary so much of the administrative detail of the election functions, duties, and work of the board, its officers and members, as is now, or may hereafter be vested in the board or its members as the county board of elections may see fit: Provided, that the board shall not delegate to an executive secretary any of its quasi-judicial or policy-making duties and authority. Within the limitations imposed upon him by the resolution of the county board of elections, the acts of a properly appointed executive secretary shall be deemed to be the acts of the county board of elections, its officers and members."

**Sec. 2.** G.S. 163-67.1, as it appears in Volume 3D of the General Statutes (1972 Replacement) is hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## S. B. 1029

## CHAPTER 860

### AN ACT TO AMEND ARTICLE 13, CHAPTER 130 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO WATER AND SEWER SANITATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-160, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by deleting from line 2 thereof the word "two-family" and inserting in lieu thereof the words "single or multiple-family", and by inserting on line 6 thereof the words "single or" between the words "a" and "multiple-family".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

S. B. 1040                      **CHAPTER 861**

AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS IN HENDERSON COUNTY, TO CREATE DISTRICTS AND TO INCREASE THE NUMBER OF COUNTY COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of County Commissioners in Henderson County shall consist of five commissioners who shall be nominated and elected for staggered terms of four years, as herein provided.

**Sec. 2.** For the purpose of nominating and electing members of the County Board of Commissioners, there is hereby created from the following precincts, five residence districts:

- District I. Clear Creek, Southeast Hendersonville, Southwest Hendersonville.
- District II. Hoopers Creek, Balfour, North East, North West.
- District III. Rugby, Mills River, Etowah, Horse Shoe, Laurel Park.
- District IV. North Blue Ridge, South Blue Ridge, Edneyville, Bat Cave, Raven Rock, Green River.
- District V. Bowman's Bluff, Crab Creek, Valley Hill, Flat Rock.

In the event the precinct boundaries should be changed after the ratification of this act, the district boundaries, as established in this section, shall remain as herein established for the purpose of electing members of the County Board of Commissioners.

**Sec. 3.** Beginning with the primary and general election to be held in 1974, there shall be nominated and elected one commissioner from each of the residence districts. Candidates must be qualified voters and reside in the district from which they seek nomination and election. In the primary and general election, the candidates shall be nominated and elected by the voters of the county as a whole.

**Sec. 4.** In the general election to be held in 1974, the three candidates in the respective districts receiving the highest number of votes shall be elected for terms of four years, and the two candidates in the respective districts receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the term of each member expires, his successor shall be elected for a term of four years.

**Sec. 5.** Vacancies on the Board of County Commissioners occurring for any reason shall be filled by the County Executive Committee of the political party with which the vacating member affiliated. The person appointed shall be a resident of the district in which the vacancy occurred and a member of the same party with which the vacating member affiliated.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 323

## CHAPTER 862

## AN ACT TO AMEND G.S. 163-106(a) CONCERNING THE OATH TO BE TAKEN BY CANDIDATES IN THE PRIMARY ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-106(a) as the same appears in the 1972 Replacement Volume 3D of the General Statutes is hereby amended and rewritten to read as follows:

“(a) Notice and Pledge. No one shall be voted for in a primary election unless he shall have filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

‘Date \_\_\_\_\_

I hereby file notice as a candidate for nomination as \_\_\_\_\_  
\_\_\_\_\_ in the \_\_\_\_\_  
party primary election to be held on \_\_\_\_\_, 19 \_\_\_\_\_.

I affiliate with the \_\_\_\_\_ party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the \_\_\_\_\_ party.)

I pledge that if I am defeated in the primary, I will not run for any office as a write-in candidate in the next general election.

Signed \_\_\_\_\_

Name of candidate

Witness:

\_\_\_\_\_  
\_\_\_\_\_

(Title of witness)’

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgements and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the seventh Saturday before the primary, at State expense, the State Board of Elections shall print and furnish to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections.”

**Sec. 2.** This act shall become effective January 1, 1976.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 364

## CHAPTER 863

AN ACT TO AMEND G.S. 163-213.9 CONCERNING THE NUMBER OF VOTES TO BE CAST FOR CANDIDATES PARTICIPATING IN A PRIMARY ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-213.9 as the same appears in the 1972 Replacement Volume 3D of the General Statutes is hereby amended to read as follows:

“§ 163-213.9. *Number of votes to be cast for candidates participating in primary.*—All candidates receiving at least five percent (5%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

(1) The total vote received by the candidates qualifying under the provisions of this Article and sections herein shall, when combined, be equal to one hundred percent (100%); and

(2) Each such candidate shall share in the total percentage in direct proportion to the total vote received by him as is calculated to represent the total vote received by him as it is mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%); and

(3) Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; and

(4) Each political party shall, on the first ballot at its national convention, cast this State's vote for the candidates as determined by the primary and calculated under this section.

Provided, however, in the event of the death or the withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate who dies or withdraws shall be reallocated to the remaining candidates having delegate votes in the manner provided in the preceding subsection of this section.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 772

## CHAPTER 864

AN ACT TO AMEND CHAPTER 339 OF THE 1957 SESSION LAWS RELATING TO THE PAYMENT OF PER DIEM TO MEMBERS OF THE HARNETT COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 339 of the 1957 Session Laws is hereby amended by rewriting the quoted paragraph to read as follows:

“In Harnett County each member of the Board of Education, except the chairman of the Board of Education of said county, shall receive for his services in attending the regular and recessed meetings of the Board of Education the sum of fifty dollars (\$50.00) per month, and in addition shall receive for his services in attending any special meetings of the Board of Education the sum of twenty-five dollars (\$25.00) per meeting. The chairman of the Board of Education of said county shall receive for his services in attending the regular

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and recessed meetings of the Board of Education the sum of seventy dollars (\$70.00) per month, and in addition shall receive for his services in attending any special meetings of the Board of Education the sum of thirty-five dollars (\$35.00) per meeting.”

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

**H. B. 1344                      CHAPTER 865**

**AN ACT TO AUTHORIZE MEMBERS OF THE NORTHAMPTON COUNTY ABC BOARD TO EMPLOY THEMSELVES AS EMPLOYEES OF THE ABC SYSTEM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 14-234, or any rule or regulation of the State Board of Alcoholic Control, the members of the Northampton County Board of Alcoholic Control are hereby authorized to employ themselves as employees of the ABC System and to pay themselves reasonable compensation, the amount of the compensation paid to themselves to be approved by the Board of County Commissioners of Northampton County prior to its payment.

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

**H. B. 1367                      CHAPTER 866**

**AN ACT TO AMEND G.S. 163-301 TO SPECIFY THE TIME MUNICIPAL OFFICIALS SHALL TAKE OFFICE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-301 is hereby amended by adding at the end thereof the following:

“Newly elected mayors and councilmen (members of the governing body) shall take office as prescribed by G.S. 160A-68.”

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

H. B. 1371

**CHAPTER 867**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN ONSLOW AND PAMLICO COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of coroner in Onslow and Pamlico Counties is hereby abolished upon the expiration of the term of the incumbent coroner. The incumbent coroner shall, upon the expiration of his term of office, have the power and authority to terminate all matters and proceedings which are pending by reason of his official acts, duties and responsibilities which occurred prior to the expiration of his term of office.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

H. B. 1383

**CHAPTER 868**

AN ACT TO PERMIT HIGHER BONDSMAN FEES IN NEW HANOVER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 619 of the 1961 Session Laws is hereby amended by substituting the words and figures "fifteen percent (15%)" for the words and figures "ten percent (10%)" now appearing in the first sentence thereof.

**Sec. 2.** This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

H. B. 1384

**CHAPTER 869**

AN ACT TO AMEND G.S. 115-183(1) AUTHORIZING THE TRANSPORTATION ON PUBLIC SCHOOL BUSES OF CHILDREN ENROLLED IN A HEADSTART PROGRAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-183(1) is hereby amended by adding at the end thereof the following proviso:

"Provided, that children enrolled in a Headstart Program which is housed in a building owned and operated by a county or city school administrative unit where school is being conducted may be transported on public school buses provided, however, the contractual arrangements made shall cause no extra expense to the State."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 1408

## CHAPTER 870

## AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES TO PROVIDE FILING FEES FOR DISTRICT AND MUNICIPAL OFFICIALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-291(3) is rewritten to read as follows:

“(3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than Friday before the eighth Saturday before the primary. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.”

**Sec. 2.** G.S. 163-294.2(e) is hereby rewritten to read as follows:

“(e) The filing fee for the primary or election shall be fixed by the governing board not later than Friday before the eighth Saturday before the primary or election. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 1469

## CHAPTER 871

## AN ACT TO AMEND CHAPTER 90 OF THE GENERAL STATUTES OF NORTH CAROLINA TO PROVIDE OPPORTUNITY FOR ADVANCED PLACEMENT IN EDUCATIONAL PROGRAMS IN NURSING, PRACTICAL NURSING, AND DENTAL HYGIENE FOR MILITARY MEDICS AND OTHERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-171.7 is amended by adding at the end a new subsection (8) which reads as follows:

“(8) Any educational unit in nursing or practical nursing which receives State appropriations for the purpose of ‘advanced placement programs’ shall develop and implement a procedure for advanced placement of any persons potentially qualified by prior training or experience into programs leading to graduation in nursing or practical nursing. This procedure shall be designed to encourage and allow credit for any person who has attained special capabilities in nursing or practical nursing through military service, on-the-job training or working experience, or other means not otherwise qualifying a person to be eligible immediately for the licensing examination provided for in G.S. 90-170. The procedure shall include these elements: public announcement of the procedure, a

convenient method for persons who have special capabilities through training or experience to make application to the educational unit for advanced placement, personal counseling on obtaining advanced placement, administration of specially-prepared written and clinical examinations for all parts of the curriculum otherwise required for graduation, exemption from course requirements when results of the examinations so indicate, and appropriate modification of curriculum requirements, when necessary, to facilitate individual advancement in education programs. The procedure for advanced placement shall not be approved by the Board unless it is fairly designed to facilitate the substitution of military or civilian training and experience for regular curricula, taking into account that the special nature of military and certain civilian training and experience may be equivalent without necessarily being identical to the courses of the educational unit.”

**Sec. 2.** G.S. 90-223 is amended by adding a new subsection (d) to read as follows:

“(d) The Board shall, in addition to any other requirements for Board approval of a school or program of dental hygiene for purposes of this Article, require that any school or program in North Carolina develop and implement a procedure for advanced placement of potentially qualified persons. This procedure shall be designed to encourage and allow credit for any person who has attained special capabilities in dental work through military service, on-the-job training or working experience, or other means not otherwise qualifying the person to be immediately eligible for licensure. The procedure shall include these elements: public announcement of the procedure, a method for persons who have special capabilities through training or experience to make application to the school or program for advanced placement, personal counseling on obtaining advanced placement, administration of specially-prepared written and clinical examinations for all parts of the curriculum otherwise required for graduation, exemption from course requirements when results of the examinations so indicate, and appropriate modification of curriculum requirements, when necessary, to facilitate individual advancement in education programs. The procedure for advanced placement shall not be approved by the Board unless it is fairly designed to facilitate the substitution of military or civilian training and experience for regular curricula, taking into account that the special nature of military and certain civilian training and experience may be equivalent without necessarily being identical to the courses of the school or program.”

**Sec. 3.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 1580

## CHAPTER 872

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS AND ACTIONS TAKEN BY THE GOVERNING BOARDS OF UNITS OF LOCAL GOVERNMENT AND BY THE LOCAL GOVERNMENT COMMISSION TO FIX THE DETAILS OF BONDS AND TO PROVIDE FOR THE ADVERTISEMENT AND SALE THEREOF.

*The General Assembly of North Carolina enacts:*

**Section 1.** All proceedings and actions heretofore taken by the Governing Boards of Units of Local Government and by the Local Government Commission to fix the details of bonds and to provide for the advertisement and sale thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-65(4).

**Sec. 2.** This act shall apply to all bonds sold by the Local Government Commission between July 1, 1973, and the effective date of this act.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of February, 1974.

## H. B. 1511

## CHAPTER 873

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 130 OF THE GENERAL STATUTES SO AS TO IMPROVE PROCEDURES FOR MAINTAINING VITAL STATISTICS RECORDS REGARDING DEATHS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-42, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is rewritten as follows:

"§ 130-42. *Notification-of-death.*—The funeral director or person acting as such who first assumes custody of a dead body or fetus shall submit a notification-of-death on a form prescribed by the State Registrar to the local registrar of the registration district in which death occurred, within 24 hours of taking custody of the body or fetus. Such notification-of-death shall identify the attending physician responsible for medical certification, except that for deaths under the jurisdiction of the medical examiner, the notification shall identify the medical examiner and certify that he has released the body to the funeral director for final disposition."

**Sec. 2.** Article 7 of Chapter 130, as the same appears in the 1973 Cumulative Supplement of Volume 3B of the General Statutes, is hereby amended by adding a new section immediately following G.S. 130-42, and immediately preceding G.S. 130-43, to be numbered G.S. 130-42.1, and to read as follows:

"§ 130-42.1. *Disposal permits; permits for disinterment and reinterment; authorization for cremation.*—(a) The funeral director or person acting as such who first assumes custody of a dead body or fetus which is under the jurisdiction of the medical examiner shall obtain a burial-transit permit signed by the medical examiner prior to final disposition or removal from the State and within five days after death.

(b) No cremation of a body shall be carried out unless an authorization for cremation form is signed by the county medical examiner certifying that he has

made inquiry into the cause and manner of death and is of the opinion that no further examination of the same is necessary. Such form shall be furnished by the Office of the Chief Medical Examiner. This provision does not apply to deaths occurring less than 24 hours after birth unless the death falls within the circumstances described in G.S. 130-198.

(c) A permit for disinterment and reinterment shall be required prior to disinterment of a dead body or fetus except as authorized by regulation or otherwise provided by law. Such permit shall be issued by the local registrar to a licensed funeral director, embalmer, or other person acting as such, upon proper application.

(d) No dead body or fetus shall be brought into this State unless accompanied by a burial-transit permit or disposal permit issued under the law of the state in which death or disinterment occurred. Such permit shall be authority for final disposition of the body or fetus in this State.

(e) The local registrar shall issue a burial-transit permit for the removal of a dead body or fetus from this State provided that the requirements of G.S. 130-42 are met, and that the death is not under the jurisdiction of the medical examiner."

**Sec. 3.** G.S. 130-43(c), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by striking out the language "G.S. 130-45" where the same appears in the last line of that subsection, and substituting therefor the language "G.S. 130-46".

**Sec. 4.** G.S. 130-45, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby repealed.

**Sec. 5.** G.S. 130-46, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten as follows:

"§ 130-46. *Death registration.*—(a) A death certificate for each death which occurs in this State shall be filed with the local registrar of the district in which the death occurred within five days after such death. If the place of death is unknown, a death certificate shall be filed in the registration district in which a dead body is found within five days after such occurrence. If death occurs in a moving conveyance, a death certificate shall be filed in the registration district in which the dead body was first removed from such conveyance.

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall obtain the medical certification of cause of death from the person responsible therefor. He shall then state the facts required relative to the date and place of burial, over his signature and over the signature of the embalmer, if applicable. He shall present the completed certificate to the local registrar or his representative.

(c) The medical certificate shall be made and signed by the physician, if any, who last treated the deceased for the disease which caused death, and such physician shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred, and he shall further state the cause of death, provided that the death does not fall within the circumstances described in G.S. 130-198. Indefinite and unsatisfactory terms, denoting only symptoms of disease or conditions resulting from disease, will not be held sufficient, and any certificate containing any such indefinite or

unsatisfactory terms, as defined by the State Registrar, shall be returned to the physician or person making the medical certificate for correction and more definite statement. In deaths in hospitals or institutions, or of nonresidents, the physician shall supply the information required above, if he is able to do so, and may state where, in his opinion, the disease was contracted.

(d) It shall be the duty of the physician or medical examiner making the medical certification as to the cause of death to complete the medical certification no more than five days after death. The said physician or medical examiner may, in appropriate cases, designate the cause of death as unknown pending an autopsy or upon some other reasonable cause for delay, but shall send the supplementary information to the local registrar as soon as it is obtained.

(e) In the case of death or fetal death without medical attendance, it shall be the duty of the funeral director, or person acting as such, and any other person having knowledge of such death, to notify the local medical examiner of such death. No disposition or removal of such body shall be carried out without the permission of the medical examiner. If there is no local medical examiner, the Chief Medical Examiner shall be notified."

**Sec. 6.** G.S. 130-47, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby repealed.

**Sec. 7.** G.S. 130-202.1, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by striking out the language "required for a burial-transit permit", where the same appears in lines 5 and 6 of subsection (a) and by striking out the language "burial-transit permit for cremation of a body shall be issued by the local registrar charged therewith and no", where the same appears in lines 1 and 2 of subsection (c).

**Sec. 8.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 19th day of February, 1974.

## H. B. 1365

## CHAPTER 874

### AN ACT TO AMEND CHAPTER 572 OF THE SESSION LAWS OF 1973 RELATING TO THE TRANSFER OF MEMBERSHIP FROM CERTAIN RETIREMENT SYSTEMS TO THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 572 of the 1973 Session Laws, as the same appears in the ratified bill, is hereby amended:

(a) by striking out the word "now" immediately following the word "are" in line 2 of Section 1; and

(b) by striking out the figures "1974" in line 5 of Section 1, in the third line from the end of Section 4, and in the last line of Section 4 and inserting in each place in lieu thereof the figures "1975"; and

(c) by striking out the period following the word "employer" in the sixth line of subdivision (2) of Section 2, inserting a comma in lieu thereof, and adding the words, "such amount being no less than the accumulated employee contributions and no more than the accumulated employee contributions plus 10% of the total compensation earned by the transferring officer during the period of prior service which is being transferred."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1974.

**H. B. 1428                      CHAPTER 875**

AN ACT TO DESIGNATE THE STATE AUDITOR IN LIEU OF THE STATE INSURANCE COMMISSIONER AS CHAIRMAN OF THE BOARD OF TRUSTEES OF THE NORTH CAROLINA FIREMEN'S PENSION FUND.

Whereas, under the Reorganization Act of 1971, the North Carolina Firemen's Pension Fund was made a part of the State Auditor's Office; and

Whereas, under the provisions of G.S. 118-19 the State Insurance Commissioner is designated as Chairman of the Board of Trustees of the North Carolina Firemen's Pension Fund; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 118-19 as the same appears in Volume 3B of the General Statutes of North Carolina, is hereby rewritten to read as follows:

"§ 118-19. *Creation and membership of board of trustees; compensation.*— There is hereby created a board to be known as the 'Board of Trustees of the North Carolina Firemen's Pension Fund'. Said Board shall consist of five members, namely:

(1) The State Auditor, who shall act as chairman.

(2) The State Insurance Commissioner.

(3) Three members to be appointed by the Governor, one a paid fireman, one a volunteer fireman and one representing the public at large, for terms of four years each. No member of said Board of Trustees shall receive any salary, compensation or expenses other than that provided in G.S. 138-5 for each day's attendance at duly and regularly called and held meetings of the Board of Trustees."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1974.

**H. B. 1471                      CHAPTER 876**

AN ACT TO REORGANIZE AND CONSOLIDATE THE LINCOLNTON CITY BOARD OF EDUCATION AND THE LINCOLN COUNTY BOARD OF EDUCATION AND TO CREATE AND ESTABLISH ONE ADMINISTRATIVE BOARD FOR ALL OF THE PUBLIC SCHOOLS IN LINCOLN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** As used in this act certain terms are defined as follows:

(a) The term "City Board" shall mean the Lincolnton City Board of Education.

(b) The term "County Board" shall mean the existing Lincoln County Board of Education.

(c) The term "Interim Board" shall mean the members of the Lincolnton City Board of Education and the existing Lincoln County Board of Education

acting jointly and together for the administration of all of the public schools within Lincoln County as provided for in this act.

(d) The term "City Administrative Unit" shall mean the geographical territory over which the Lincoln County Board of Education exercises authority in administering and operating the public schools of said unit.

(e) The term "County Administrative Unit" shall mean the geographical territory over which the Lincoln County Board of Education exercises authority in administering and operating the public schools of said unit.

(f) The term "County Commissioners" shall mean the Board of County Commissioners of Lincoln County.

(g) The term "Lincoln County Board of Education" shall mean the single Board hereinafter established by this act for the purpose of operating and administering all of the public schools of Lincoln County, including those schools now operated and administered by the City Board and now operated and administered by the County Board.

**Sec. 2.** Upon the ratification of this act, for the purpose for which the Interim Board is hereby established, the Interim Board shall have all statutory powers and authority to prepare and submit to the county commissioners all necessary budgets including supplemental budgets and at the time required by law shall prepare and submit to the county commissioners all necessary capital outlay, debt service and current expense budgets; and to pass the necessary resolutions to bring about an orderly merger of the City Administrative Unit and the County Administrative Unit.

All powers and authority not specifically given to the Interim Board under this act are specifically retained by the two existing boards of education.

The Interim Board shall consist of members of the City Board and County Board acting jointly and by a majority vote of all members present, and the members of said Interim Board shall elect their own chairman and vice-chairman to preside at meetings, and the chairman and vice-chairman shall have a vote on all matters considered by the Interim Board but the presiding officer shall have no authority to vote to create a tie and then again vote to break the tie.

On the first Monday subsequent to the ratification of this act, the Interim Board shall hold its first meeting at which time it shall elect a chairman and vice-chairman.

**Sec. 3.** The newly constituted and established Lincoln County Board of Education shall consist of seven members, and each of said members shall be residents and qualified voters of the townships according to the membership allocations hereinafter made to said townships as follows:

North Brook Township, Howard's Creek Township, that area of Lincoln County Township presently outside the present city limits of Lincoln County, that area of Lincoln County Township presently inside the city limits of Lincoln County, Ironton Township, and Catawba Springs Township shall each be entitled to one member on the Lincoln County Board of Education.

One member shall be elected from the county at large, without regard to township.

**Sec. 4.** The Lincoln County Board of Education shall on the first day of July, 1974, assume the authority and shall control, operate and administer public schools of Lincoln County, including those public schools located and situated in the City Administrative Unit. The membership and terms of office

of the Lincoln County Board of Education shall be as follows: Gene Baxter, North Brook Township; Virginia Sullivan, Ironton Township; Henry Collins, Lincolnton Township inside the city limits of Lincolnton; and Elliott Beal, member at large, shall serve until the first Monday in December, 1976, or until their successors are elected and qualified as provided for in this act. Gene Gates, Lincolnton Township outside the city limits of Lincolnton; Jack Yoder, Howard's Creek Township; and Katie Cooper, Catawba Springs Township, shall serve until the first Monday in December, 1978, or until their successors are elected and qualified as provided for in this act.

On July 8, 1974, the Lincoln County Board of Education shall hold its initial meeting. At said meeting, Norris S. Childers shall be elected to serve as the Superintendent of the Lincoln County Board of Education, and Lester Propst, Jr., shall be elected to serve as the Associate Superintendent, and each appointment shall be for four years, effective July 1, 1974. Thereafter, the Superintendent and Associate Superintendent shall be elected by the Lincoln County Board of Education for a term not to exceed four years. The salaries paid the Superintendent and Associate Superintendent shall not be less than the salaries formerly paid to those respective individuals immediately prior to the merger of the County Administrative Unit and the City Administrative Unit.

The Lincoln County Board of Education, acting jointly and by a majority vote of all members present, shall elect a chairman and vice-chairman to preside at meetings, and the chairman and vice-chairman shall have a vote on all matters considered by the Lincoln County Board of Education but the presiding officer shall have no authority to vote to create a tie and then again vote to break the tie. All vacancies occurring in the membership of the Lincoln County Board of Education by reason of death, resignation, removal of residence, or for any cause whatsoever, shall be filled by the remaining members of said Board by appointing a member from the township creating the vacancy for the unexpired term. The Lincoln County Board of Education shall have all power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on boards of education in general.

Effective July 1, 1974, all claims and demands of every kind which the City Administrative Unit and the County Administrative Unit may have shall pass and be transferred to the Lincoln County Board of Education, and said Board of Education shall have the same powers and authority to enforce said claims and demands as the City Administrative Unit and the County Administrative Unit would have had in the event of their continued existence. Any obligations and liabilities of the City Administrative Unit and the County Administrative Unit existing as of July 1, 1974, shall be and become the obligations and liabilities of the Lincoln County Board of Education as of July 1, 1974, and such obligations and liabilities may be enforced against the said Lincoln County Board of Education thereafter to the same extent that they might have been enforced against the existing boards had they continued in existence.

**Sec. 5.** At the time of the primary and election of State and county officers for the year 1976, there shall be nominated and elected four members of the Lincoln County Board of Education, one each from North Brook Township, Ironton Township, Lincolnton Township inside the city limits of Lincolnton and at large.

At the time of the primary and election of State and county officers for the year 1978, there shall be nominated and elected three members of the Lincoln County Board of Education, one each from the Lincolnton Township outside the city limits of Lincolnton, Howard's Creek Township and Catawba Springs Township. Candidates seeking nomination for election from the townships or districts established by Section 3 of this act shall be nominated by the voters of the township or district, and candidates seeking nomination for the at-large seat shall be nominated by the voters of Lincoln County at large. All candidates shall be elected by the voters of Lincoln County at large. Each candidate for nomination for membership on the Lincoln County Board of Education shall file a notice of candidacy with the Board of Elections showing the township of which said candidate is a resident, and also showing the candidate's party affiliation. All candidates for nomination from the various townships and at large, shall file such notice of candidacy by noon on or before the sixth Saturday before the date on which the primary is to be held and shall pay a filing fee of ten dollars (\$10.00). The nomination and election of said members of the Lincoln County Board of Education shall be held, conducted and supervised by the Board of Elections, and except as herein provided the general election laws and regulations for the nomination and election of county officers, as set forth in Chapter 163 of the General Statutes, as amended, shall apply and govern as to the holding of said primary and election.

Each person elected to the Lincoln County Board of Education shall serve for a term of four years. Biennially thereafter, at each primary and election for the nomination and election of State and county officers, the vacancies occurring in the membership of the Lincoln County Board of Education shall be filled by nomination and election as the said terms of the members expire, and all such members so elected shall hold office for terms of four years. The members of the Lincoln County Board of Education nominated and elected shall take office on the first Monday in December following their election, and the terms of their office shall date and extend from that time.

If a person elected to the Lincoln County Board of Education from a township or district ceases to reside in that township or district during the term of office to which he was elected, for any reason other than a redefinition of district boundaries occurring during the term of office, the Lincoln County Board of Education may by majority vote declare a vacancy and proceed to fill the vacancy in the manner provided in Chapter 115 of the General Statutes of North Carolina.

**Sec. 6.** As of July 1, 1974, when the Lincoln County Board of Education shall assume all of the authority of administering and operating all schools in the existing City Administrative Unit and County Administrative Unit, all authority and power of the Interim Board, the City Board and the County Board shall cease and terminate and the same shall be vested in the Lincoln County Board of Education which shall control, administer, and operate all of the public schools located in Lincoln County.

**Sec. 7.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1974.

H. B. 690 CHAPTER 877

AN ACT MAKING THE PRESENT STATUTE PROHIBITING THE PLACING OF TRASH ON THE RIGHT-OF-WAY OF A PUBLIC ROAD APPLICABLE TO PUBLIC ROADS IN INCORPORATED MUNICIPALITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-399 is hereby amended by deleting the words "where said highway or public road is outside of an incorporated town" as the same appears in the 5th and 6th lines of the first sentence thereof.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1974.

H. B. 1201 CHAPTER 878

AN ACT TO PROVIDE THAT A VISUALLY HANDICAPPED PERSON MAY USE A REGISTERED SIGNATURE FACSIMILE AS A PROPER MARK OF HIS LEGAL SIGNATURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Statutes of North Carolina are hereby amended by adding a new Chapter to follow Chapter 22 to read as follows:

Chapter 22A.

"Signatures.

"§ 22A-1. *Use of a signature facsimile by a visually handicapped person.*—A visually handicapped person, as defined in G.S. 111-11, may use a registered signature facsimile as a proper mark of his legal signature. An example of the signature facsimile shall be registered by the visually handicapped person with the clerk of the superior court in the county of his domicile. The registered signature facsimile may be revoked at any time in writing by the visually handicapped person."

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1974.

H. B. 1433 CHAPTER 879

AN ACT TO DESIGNATE THE NEW RIVER AS A SCENIC RIVER AREA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3, Chapter 113A of the General Statutes of North Carolina is hereby amended by adding a new section to read as follows:

"§ 113A-35.1. *Components of system.*—That segment of the New River which extends from the confluence of the north and south forks of the New River in Ashe County through Ashe and Alleghany Counties to the Virginia line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1974.

H. B. 1447                      **CHAPTER 880**

AN ACT TO ADD ALAMANCE COUNTY TO THE PROVISIONS OF ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICE IN CERTAIN COUNTIES, AND TO DELETE ALAMANCE COUNTY FROM THE PROVISIONS OF CHAPTER 964 OF THE 1967 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.8, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is amended by adding the word "Alamance" after the word "to" and before the word "Anson" in line two thereof.

**Sec. 2.** Section 2 of Chapter 964 of the 1967 Session Laws is hereby amended by deleting Alamance County from the list of counties therein.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1974.

H. B. 1477                      **CHAPTER 881**

AN ACT TO AMEND CHAPTER 47B TO MAKE CLARIFYING EDITORIAL CHANGES IN THE REAL PROPERTY MARKETABLE TITLE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47B-2, as the same appears in the 1973 Cumulative Supplement of the 1966 Replacement Volume 2A of the General Statutes, is amended by deleting the word "interest" from the catchline thereof following the word "to" and preceding the word "in" and from lines 3, 5, 6, 9, 10, 12 and 14 wherever the same appears therein and inserting in lieu thereof the word "estate".

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of February, 1974.

H. B. 1162                      **CHAPTER 882**

AN ACT TO AMEND ARTICLE 12 OF CHAPTER 130 OF THE GENERAL STATUTES RELATING TO THE POWERS OF SANITARY DISTRICTS AND BIDDING PROCEDURES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-128(9)b. is hereby amended by inserting immediately after the word "water" in line 3, the words "and sewer service" and by adding after the word "water" in the last line, the words "and adequate sewer service".

**Sec. 2.** G.S. 130-143 is hereby amended by rewriting the third paragraph to read as follows:

"All contracts for work performed, and for the purchase of materials and supplies by the sanitary district shall be in accordance with the provisions of Article 8 of Chapter 143 of the General Statutes."

**Sec. 2.1** This act shall apply only to those counties with a population of more than 70,000, as determined by the 1970 United States census.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1974.

**H. B. 1659                                      CHAPTER 883**

**AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT WITH RESPECT TO THE MATURITY SCHEDULE OF BONDS BY CORRECTING A TRANSCRIPTION ERROR.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-65(4), as enacted by Chapter 780 of the Session Laws of 1971, as amended by Chapter 494 of the Session Laws of 1973, and as the same appears in the 1973 Cumulative Supplement to Volume 3D of the General Statutes, is amended by inserting the word "prior" between the words "smallest" and "installment," so that G.S. 159-65(4) reads as follows:

"(4) No installment of any issue may be more than four times as great in amount as the smallest prior installment of the same issue."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of February, 1974.

**H. B. 1729                                      CHAPTER 884**

**AN ACT TO REPEAL G.S. 153A-21 SO AS TO PROVIDE CONSISTENCY IN G.S. CHAPTER 153A.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-21, as the same appears in the 1973 Cumulative Supplement to Volume 3C of the General Statutes is repealed in its entirety.

**Sec. 2.** This act shall be in full force and effect from and after February 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of February, 1974.

**H. B. 528                                      CHAPTER 885**

**AN ACT TO REVISE THE STATUTES RELATING TO VENUE OF CORPORATIONS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1-79 is rewritten to read as follows:

"§ 1-79. *Domestic Corporations.*—For the purpose of suing and being sued, the residence of a domestic corporation is as follows:

(1) Where the registered office of the corporation is located, or where the corporation maintains a principal place of business or is regularly engaged in carrying on business.

(2) If the corporation having been formed prior to July 1, 1957, does not have a registered office in this State, but does have a principal office in this State, its residence is in the county where such principal office is said to be located by its certificate of incorporation, or amendment thereto, or legislative charter."

## CHAPTER 885      Session Laws—1973

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1974.

## H. B. 1142                      CHAPTER 886

AN ACT TO AMEND G.S. 7A-308(a)(12) SO THAT THE FEE COLLECTED BY THE CLERK OF SUPERIOR COURT FOR THE APPROPRIATION OF COPIES, INCLUDING TRANSCRIPTS, WILL BE TWENTY-FIVE CENTS PER PAGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-308(a)(12) is hereby amended by deleting from the right-hand column, parallel to the word "thereof", the figure "0.50" and inserting in lieu thereof the figure "0.25".

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 25th day of February, 1974.

## H. B. 1498                      CHAPTER 887

AN ACT TO ADD RUTHERFORD COUNTY AND STANLY COUNTY TO THE PROVISIONS OF ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICE IN CERTAIN COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.8, as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes, is amended by adding the word "Stanly" after the word "Scotland" and before the word "Vance" in line six thereof and further amended by adding after the word "Rockingham" and before the word "Scotland", the word "Rutherford".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1974.

## H. B. 1541                      CHAPTER 888

AN ACT AMENDING CHAPTER 1259 OF THE SESSION LAWS OF 1967 RELATING TO THE WINSTON-SALEM TRANSIT AUTHORITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** That Section 5 of Chapter 1259 of the Session Laws of 1967 is hereby amended so that the first sentence thereof reads as follows:

"Territorial Jurisdiction. The territorial jurisdiction of the Authority shall extend to all local public passenger transportation operating within the City of Winston-Salem and within 30 miles outside of the corporate limits of the City of Winston-Salem, as now or hereafter established."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1974.

S. B. 964 CHAPTER 889

AN ACT TO AMEND NORTH CAROLINA GENERAL STATUTES 20.279.15(2), DEALING WITH THE REQUIRED MINIMUM LIMITS OF PROOF OF FINANCIAL RESPONSIBILITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-279.15(2), as the same appears in the 1973 Advance Legislative Service, Volume No. 7 of the North Carolina General Statutes is hereby amended by striking out of line 1 of subdivision (2), the words and amount "ten thousand dollars (\$10,000)" and by substituting in lieu thereof the words and amount "fifteen thousand dollars (\$15,000)".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

S. B. 984 CHAPTER 890

AN ACT TO AMEND CHAPTER 221, PUBLIC-LOCAL LAWS OF 1935, RELATING TO PRIMARY ELECTIONS FOR COUNTY COMMISSIONERS IN COLUMBUS COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 221, Public-Local Laws of 1935, is hereby rewritten to read as follows:

"Sec. 5. The candidates in the primary from each district shall be voted for by all the qualified voters of the county. The candidate from each district receiving the largest number of votes shall be declared the nominee of his political party from that district; provided that if there are more than two candidates of the same party running in a district, the candidate receiving a majority of the votes shall be declared the nominee, but should no candidate receive a majority of the votes, then the candidate receiving the second highest number of votes may call for a second primary as provided in G.S. 163-111 for nominees for a single office. In the general election all candidates shall be voted for by all the qualified voters of Columbus County."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1485 CHAPTER 891

AN ACT TO AUTHORIZE THE BLADEN COUNTY BOARD OF EDUCATION TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Bladen County Board of Education is hereby authorized and empowered, in its discretion, to enter into a construction contract for one Media Center to be constructed at the Bladenboro High School, the total cost of which shall not exceed the sum of fifty thousand dollars (\$50,000), without advertisement and without complying with any of the provisions of Article 8 of Chapter 143 of the General Statutes.

## CHAPTTER 891    Session Laws—1973

**Sec. 2.** This act shall apply only to the Bladen County Board of Education.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1505

### CHAPTER 892

AN ACT TO AMEND CHAPTER 26 OF THE PRIVATE LAWS OF 1935, AS AMENDED BY CHAPTER 700 OF THE SESSION LAWS OF 1943, AND AS AMENDED BY CHAPTER 56 OF THE SESSION LAWS OF 1949, AND AS FURTHER AMENDED BY CHAPTER 342 OF THE SESSION LAWS OF 1957, RELATING TO APPOINTMENT OF ADDITIONAL MEMBER OF THE LEXINGTON CITY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 26 of the Private Laws of 1935, as amended by Chapter 700 of the Session Laws of 1943 and by Chapter 56 of the Session Laws of 1949 and by Chapter 342 of the Session Laws of 1957, is hereby further amended by rewriting said Section 2 so as to read as follows:

“Sec. 2. The Lexington City Board of Education shall be composed of seven members. Six of the members shall be appointed by the City Council of the City of Lexington. The City Council shall appoint one member to the Board of Education from each of the five wards of the City of Lexington and one member from the territory of the Lexington City School Administrative Unit at large, each of whom shall serve for the term appointed or until their successors are appointed and qualified. One of the members of the Board of Education must reside within the jurisdictional area of the Lexington City School Administrative Unit and must reside outside of the corporate limits of the City of Lexington as same may exist from time to time. The member residing outside of the corporate limits of the City of Lexington and within the limits of the Lexington City School Administrative Unit shall be appointed by the Board of County Commissioners of Davidson County. If a Board of County Commissioners shall fail to make this appointment within 60 days after receiving a resolution from the City Council requesting that it be made, the City Council may then make this appointment. All members of the Board of Education shall be appointed for three-year terms. The terms of all members of the Lexington City Board of Education as it is now constituted shall remain in full force and effect under the provisions of Chapter 342 of the 1957 Session Laws of the State of North Carolina, and this act is in no way to repeal any such prior appointed term. No member of the Board of Education may serve for more than two consecutive full terms without an intervening period of three years. All vacancies occurring on said Board shall be filled for the unexpired term by the City Council if the vacancy be one for a member residing within the corporate limits of the City of Lexington, and if the member be residing outside the corporate limits of the City of Lexington, then the vacancy shall be appointed by the Board of County Commissioners of Davidson County provided for hereinabove. The appointment of the additional member provided for in this act shall be appointed by the Board of County Commissioners of Davidson County

within 60 days from and after the effective date of the ratification of this act for a term which shall expire on the second Monday in December of 1977.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1518

**CHAPTER 893**

**AN ACT TO ANNEX CERTAIN AREA INTO THE TOWN OF GARYSBURG.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The corporate limits of the Town of Garysburg are hereby extended to annex and include the following described area:

BEGINNING at a concrete monument on the existing corporate limit line, said point being one-half mile (2640 feet) from the old block house site and 160 feet southeast of the S.C. L.R.R. Said point forms intersection of one-half mile (2640 feet) radius from the old block house and the northern right of way of Highway N. 46, when extended in an easterly direction; thence along said northern right of way of Highway No. 46, N. 83° 42' W. 4096.0 feet; thence N. 74° 53' W. 530.2 feet to a point where same intersects with the western line of said radius one half mile (2640 feet) from said block house; thence in a southwesterly direction along said radius 460.0 feet to a concrete monument on said radius; thence N. 52° 00' W. 200 feet to a point in the eastern line of the right of way of S.C.L. Railroad; thence along said S.C.L.R.R. right of way N. 49° 51' E. 3743.2 feet to a point of a curve in said S.C.L.R.R. right of way; thence along a 2° 00' curve 1233.8 feet to a concrete monument in said eastern right of way of S.C.L.R.R.; thence N. 77° 15' E. 1453.9 feet along the lands of J. W. Harris to a concrete monument corner in the lands of B. P. Ellis, thence along the lands of B. P. Ellis S. 17° 05' E. 1553.1 feet to a concrete monument in the northern right of way of Highway No. 195; thence along the northern right of way of said Highway No. 195, S. 75° 00' W. 992.0 feet to the point of a curve; thence along said 8° 00' curve 1340.7 feet to a point where the said northern right of way of Highway No. 195 intersects with the former corporate limit line (one-half mile radius) from old block house; thence in a southeasterly direction along said radius 2008.21 feet to the point of beginning.

**Sec. 2.** From and after the effective date of this act, the territory described above and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force within the Town of Garysburg and shall be entitled to the same privileges and benefits as other parts of the municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

**Sec. 3.** This act shall be effective upon ratification.

CHAPTER 893      Session Laws—1973

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1554      **CHAPTER 894**

AN ACT TO PROVIDE THAT ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES RELATING TO LIENS FOR AMBULANCE SERVICE SHALL APPLY TO STOKES COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.8 as the same appears in Volume 2A of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended by inserting in the sixth line thereof immediately after the word "Scotland" and before the word "Vance" the word "Stokes".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1565      **CHAPTER 895**

AN ACT TO AMEND CHAPTER 234, SESSION LAWS OF 1973, TO PROVIDE STAGGERED TERMS FOR THE HAW RIVER TOWN COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 234, Session Laws of 1973 is hereby amended by deleting the last sentence thereof and inserting the following:

"Beginning with the regular municipal election to be held in 1975, five councilmen shall be elected to serve staggered terms as herein provided. The three councilmen receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

H. B. 1582      **CHAPTER 896**

AN ACT TO AMEND CHAPTER 368 OF THE 1957 SESSION LAWS RELATING TO EXPENDITURE OF FUNDS FOR INDUSTRIAL DEVELOPMENT IN NASH COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 368 of the 1957 Session Laws, as the same was amended by Chapter 776 of the 1971 Session Laws, is hereby rewritten to read as follows:

"Section 1. The Board of Commissioners of Nash County is hereby authorized and empowered to appropriate and set apart annually a fund in such amount as said board shall in its discretion determine annually to be desirable and necessary to carry out the provisions and purposes of this act up to and including the sum of fifty thousand dollars (\$50,000) annually."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

## H. B. 1646 CHAPTER 897

### AN ACT TO EXTEND THE MUNICIPAL LIMITS OF THE TOWN OF BEAUFORT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Whereas, the Town of Beaufort has had its municipal limits established originally by its Charter which from time to time has been amended and which limits have also been extended pursuant to acts on the part of the Town pursuant to statutory annexation processes;

NOW, THEREFORE, the municipal limits of the Town of Beaufort, as established as of this date, are hereby amended to include the following:

*Tract One:* Beginning at a point in the center of the bridge crossing Town Creek, which bridge is a part of Turner Street and which is in the present existing municipal limits of the Town of Beaufort; and running thence N 8-01 E 426.35 feet to a point; thence N 74-53 E 1,378 feet; thence N 44-38 E 1,150 feet; thence N 0-47 W 1,510.5 feet to the center line of Airport Road; thence with the center of Airport Road S 73-52 E 811.3 feet to a point where the center of Airport Road intersects with the center of N. C. Highway #101; thence N 40-12 E 36 feet, crossing N. C. Highway #101, to a point in its eastern margin; thence N 70-27 E 117.9 feet; thence S 79-07 E 175.2 feet; thence S 48-43 E 287 feet; thence S 58-33 E 530 feet; thence N 30-53 E 1,384.5 feet to a point; thence S 59-15 E 16.5 feet; thence S 3-30 W 310.8 feet; thence S 23-40 E 1,400 feet; thence S 22-27 E 405.3 feet to the present municipal limits of the Town of Beaufort; thence with the municipal limits of the Town of Beaufort S 37-30 W 470 feet; thence continuing with said municipal limits S 67-05 W 1,350 feet to a point in the eastern margin of N. C. Highway #101; thence continuing with the municipal limits of the Town of Beaufort S 63-50 W 60 feet; thence S 68-15 W 138 feet; thence S 21-20 E 158.3 feet; thence N 83-50 W 499.6 feet; thence S 10-15 E 407 feet to a point in the northern margin of West Beaufort Road; thence crossing West Beaufort Road S 70-00 W 90.2 feet; thence S 0-20 W 147.7 feet; thence continuing with the municipal limits of the Town of Beaufort S 16-50 E 305.7 feet; thence S 33-45 W 636 feet to a point in Town Creek; thence with Town Creek, the present boundary of the municipal limits, N 72-30 W 3,029.1 feet to the point of beginning.

*Tract Two:* Beginning at the point of intersection of the northern margin of Short Street with the western margin of U. S. Highway #70 (Live Oak Street) in the present municipal boundary of the the Town of Beaufort; and running thence with the western margin of U. S. Highway #70 N 58-30 E 420 feet; thence N 46-00 E 47 feet; thence crossing U. S. Highway #70 and running with the southern margin of Steep Point Road S 79-43 E 700 feet; thence S 11-30 W 545.14 feet to the present municipal limits of the Town of Beaufort; thence with the present municipal limits of the Town of Beaufort N 73-30 W 598.3 feet; thence continuing with said limits N 59-00 W 458 feet to the point of beginning.

**Sec. 2.** The above areas shall become a part of the Town of Beaufort immediately upon ratification of this act.

CHAPTER 897                      Session Laws—1973

The areas hereby annexed shall be subject to ad valorem and all other lawful taxation on the part of said Town as of January 1, 1975.

That municipal services as to police protection, fire protection, street lights and garbage collection will commence as soon as practical but no later than January 1, 1975. That construction of sewerage outfalls will be commenced not later than 12 months following January 1, 1975.

The Town of Beaufort is hereby authorized to prepare a map of the Town of Beaufort including the areas as above shown and file same in the office of the Register of Deeds of Carteret County and, immediately thereafter, same shall become the official map of the Town of Beaufort.

**Sec. 3.** Except as otherwise provided herein, the territory and its citizens and property shall be subject to all debts, laws, ordinances in force in the Town of Beaufort, and shall be entitled to the same privileges and benefits as other parts of the Town.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

S. B. 1069                      **CHAPTER 898**

AN ACT TO AMEND CHAPTER 754, 1971 SESSION LAWS RELATIVE TO THE TIME PERSONS ELECTED TO THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION SHALL TAKE OFFICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 754, 1971 Session Laws, is hereby amended by changing the date members of the Charlotte-Mecklenburg Board of Education elected shall take office from the first Monday in December next succeeding their election to the first Wednesday following the expiration of 60 days next succeeding the initial primary election.

**Sec. 2.** The second sentence of Section 2, Chapter 754, 1971 Session Laws, is amended by deleting the words and punctuation "and four members of the Board of Education shall be elected to take office on the first Monday in December in 1976,".

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall take effect upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

S. B. 1074                      **CHAPTER 899**

AN ACT TO AUTHORIZE THE CITY OF SANFORD TO EXPEND NON-TAX FUNDS FOR THE CELEBRATION OF ITS ONE HUNDREDTH ANNIVERSARY THROUGH A NON-PROFIT CORPORATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The City of Sanford is hereby authorized to expend non-tax funds for the purpose of celebrating the 100th Anniversary of the City and the City is authorized to expend such funds as it deems necessary and proper, through the Sanford Centennial Committee, Inc., a non-profit corporation

created for the purpose of supervising, organizing and coordinating the programs, functions and projects for the centennial celebration.

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

**S. B. 1075                      CHAPTER 900**

**AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL BOARD OF MECKLENBURG COUNTY TO TRADE A PARCEL OF LAND TO STRAIGHTEN OUT A PROPERTY LINE.**

**Section 1.** The Alcoholic Beverage Control Board of Mecklenburg County is hereby authorized to trade a parcel of land of approximately 4200 square feet to James W. Cogdell and W. T. Cozart of Mecklenburg County for a parcel of land approximately 8200 square feet. These parcels are known as parcel Number 2 and parcel Number 1 respectively and are recorded on a map prepared by Whittington/Brice Associates, Incorporated, of Charlotte and designated as Job Number 287, dated March 8, 1972. The title line on this map reads "Randolph Medical Park and Randolph Clinic - proposed property line change."

**Sec. 2.** The transfer of ownership shall be by deed signed by the Chairman of the Alcoholic Beverage Control Board of Mecklenburg County and attested to by one or both members of that board.

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

**S. B. 1077                      CHAPTER 901**

**AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE, RELATING TO THE ORGANIZATIONAL MEETING OF CITY COUNCIL.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3.21, Subchapter B of Chapter III of Chapter 713 of the Session Laws of 1965, as amended, is hereby further amended by deleting the words and phrases:

"The City Council elected as herein provided shall meet at 10:00 o'clock in the forenoon on the second Monday after the regular municipal election," and substituting in lieu thereof the following:

"The organizational meeting of the City Council shall be held on the date and at the time of the first regular meeting in December after the results of the election have been certified,".

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1401                      **CHAPTER 902**

AN ACT TO AMEND G.S. 148-4 TO EXPRESSLY AUTHORIZE  
COMMUNITY LEAVES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 148-4, as it appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina, is hereby amended as follows:

(1) By deleting from the fourth line in subdivision (5) the period (.) following the word "sister" and by inserting in lieu thereof a semicolon (;) and the word "or";

(2) By adding a new subdivision to be numbered (6), immediately following subdivision (5), to read as follows:

"(6) Participate in community based programs of rehabilitation, including, but not limited to the existing community volunteer and home-leave programs, and other programs determined by the Commissioner of Correction to be consistent with the prisoner's rehabilitation and return to society."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1403                      **CHAPTER 903**

AN ACT TO PROVIDE FOR THE FILING OF CONSOLIDATED  
RETURNS BY HUSBAND AND WIFE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-152 is hereby amended by:

(a) Redesignating subsections (b), (c) and (d) thereof as subsections (c), (d) and (e) respectively.

(b) Inserting a new subsection (b) to read as follows:

"(b) A joint return may not be filed by a husband and wife; however, a husband and wife may, at their election, file their separate income tax returns on a single form, and a husband and wife so filing shall be deemed to have expressly agreed that: (1) If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the Department of Revenue to the credit of the other spouse if the sum of the payments by such other spouse, including withholding and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable. (2) If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses or if either is deceased, to the survivor."

**Sec. 2.** G.S. 105-157(a) is hereby amended by changing the period at the end of subsection (a) thereof to a semicolon and adding the following:

“; provided, that when a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and the amount for which one spouse is separately liable has been reduced by credit for

overpayment of tax by the other spouse as provided in that subsection, only the amount in excess of such credit shall be payable.”

**Sec. 3.** G.S. 105-163.16 is hereby amended by adding a new subsection at the end thereof to be designated as subsection (d) and to read as follows:

“(d) When a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and a refund for overpayment of tax is made payable to both spouses as provided in that subsection, the provisions of this section shall apply to such refund.”

**Sec. 4.** G.S. 105-259 is hereby amended by changing the period at the end of the first paragraph thereof to a semicolon and adding the following:

“; provided, that when an election is made by a husband and wife under G.S. 105-152(b) to file their separate returns on a single form, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on such single return shall not be deemed to be in violation of the provisions of this paragraph.”

**Sec. 5.** G.S. 105-266 is hereby amended by adding a new sentence at the end thereof to read as follows:

“When a husband and wife have elected under G.S. 105-152(b) to file their separate income tax returns on a single form and a refund for overpayment of tax is made payable to both spouses as provided in that subsection, the provisions of this section shall apply to such refund.”

**Sec. 6.** This act shall become effective for all taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

## H. B. 1432

## CHAPTER 904

### AN ACT TO REMOVE AN UNNECESSARY DUPLICATION OF SUBSECTIONS IN G.S. 105-275.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (13) of G.S. 105-275 as it appears in the Michie Company's 1973 Supplement to Volume 2D of the General Statutes of North Carolina is hereby repealed.

**Sec. 2.** Present Subsection (14) of G.S. 105-275 as it appears in Michie Company's 1973 Supplement to said Volume 2D is renumbered Subsection (13).

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1561 CHAPTER 905

AN ACT TO AMEND G.S. 105-277.4 TO MAKE CLEAR THAT A LIEN RESULTING FROM TAXES DUE WOULD ATTACH ONLY TO THE PARCEL OF PROPERTY AS PROVIDED IN G.S. 105-355(a).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-277.4(c), as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina, is amended on line 4 of the subsection by deleting the word "all" between the words "a lien on" and "the real".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1562 CHAPTER 906

AN ACT TO AMEND G.S. 105-277.4 TO ELIMINATE THE IMPOSITION OF DEFERRED TAXES AT THE TIME OF TRANSFER OF OWNERSHIP TO FAMILY MEMBERS, AND TO EXTEND THE PERIOD OF LISTING UNDER THE SECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-277.4(c), as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina, is amended by deleting all of line 7 of the subsection, and inserting in lieu thereof the following:

"not be payable, unless and until the owner conveys the property to anyone other than a spouse, parent, child, or sibling of the owner or ownership of the property passes to anyone other than such an enumerated family member by will or intestacy, or the".

**Sec. 2.** G.S. 105-277.4(a), as it appears in the 1973 Supplement to Volume 2D of the General Statutes of North Carolina, is amended by rewriting the third sentence of the subsection, found in lines 8 and 9 of the section to read as follows:

"The application shall be filed on or before March 31, in the year 1974; and thereafter, annually during the regular listing period."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1569 CHAPTER 907

AN ACT TO ADD BURKE COUNTY TO THE PROVISIONS OF ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICES IN CERTAIN COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.8 as the same appears in Volume 2A of the 1973 Cumulative Supplement to the General Statutes is hereby amended by adding the word "Burke" after the word "Buncombe", and by adding the word "Cherokee" after the word "Catawba".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

H. B. 1576

**CHAPTER 908**

AN ACT TO ABOLISH THE OFFICE OF CORONER IN NASH COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of coroner in Nash County and Transylvania County is hereby abolished upon the expiration of the term of the incumbent coroner. The incumbent coroner shall, upon the expiration of his term of office, have the power and authority to terminate all matters and proceedings which are pending by reason of his official acts, duties and responsibilities which occurred prior to the expiration of his term of office.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of February, 1974.

S. B. 1041

**CHAPTER 909**

AN ACT TO PROVIDE FOR THE RECOGNITION OF SAFETY EQUIPMENT INSPECTION CERTIFICATES ISSUED BY OTHER JURISDICTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of G.S. 20-183.8 is hereby amended by adding a new paragraph thereto to read as follows:

“The Commissioner is also authorized to promulgate rules and regulations providing that the safety equipment inspection may be waived with respect to any vehicle which has undergone a similar inspection in another jurisdiction and for which a valid and current inspection certificate has been issued by such other jurisdiction.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1224

**CHAPTER 910**

AN ACT TO AMEND THE INCOME TAX ACT TO PROVIDE A CREDIT AGAINST INCOME TAX FOR THE CONSTRUCTION OF DWELLING UNITS WHICH SATISFY NORTH CAROLINA BUILDING CODE STANDARDS FOR HANDICAPPED LIVING UNITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Division I of Article 4, Subchapter I of Chapter 105 of the North Carolina General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 105-130.22 and to read as follows:

“§ 105-130.22. *Tax credit for construction of dwelling units for handicapped persons.*—There shall be allowed to corporate owners of multifamily rental units located in North Carolina as a credit against the tax imposed by this division, an amount equal to five hundred fifty dollars (\$550.00) for each dwelling unit constructed by such corporate owner which conforms to the requirements of Section (IIX) of the North Carolina Building Code for the taxable year within

which the construction of such dwelling unit is completed; provided, that credit will be allowed under this section only for the number of such dwelling units completed during the taxable year which does not exceed five percent (5%) of the total of such units completed during the taxable year; provided further, that if the credit allowed by this section exceeds the tax imposed by this division reduced by all other credits allowed by the provisions of this division, such excess shall be allowed against the tax imposed by this division for the next succeeding year; and provided further, that in order to secure the credit allowed by this section the corporation shall file with its income tax return for the taxable year with respect to which such credit is to be claimed, a copy of the occupancy permit on the face of which there shall be recorded by the building inspector the number of units completed during the taxable year which conform to Section (IIX) of the North Carolina Building Code.”

**Sec. 2.** Division II of Article 4, Subchapter I of Chapter 105 of the North Carolina General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 105-151.1 and to read as follows:

“§ 105-151.1. *Tax credit for construction of dwelling units for handicapped persons.*—There shall be allowed to resident owners of multifamily rental units located in North Carolina as a credit against the tax imposed by this division, an amount equal to five hundred fifty dollars (\$550.00) for each dwelling unit constructed by such resident owner which conforms to the recommendations of Section (IIX) of the North Carolina Building Code for the taxable year within which the construction of such dwelling unit is completed; provided, that credit will be allowed under this section only for the number of such dwelling units completed during the taxable year which does not exceed five percent (5%) of the total of such units completed during the taxable year; provided further, that if the credit allowed by this section exceeds the tax imposed by this division reduced by all other credits allowed by the provisions of this division, such excess shall be allowed against the tax imposed by this division for the next succeeding year; and provided further, that in order to secure the credit allowed by this section the taxpayer shall file with his income tax return for the taxable year with respect to which such credit is to be claimed, a copy of the occupancy permit on the face of which there shall be recorded by the building inspector the number of units completed during the taxable year which conform to Section (IIX) of the North Carolina Building Code.”

**Sec. 3.** This act shall become effective for income years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1257 CHAPTER 911

AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-36(c) is amended by adding thereto the following:

“Before submitting any proposal to the Governor or the General Assembly for the addition to the system of a river or segment of a river, the Director or his authorized representative, shall hold a public hearing in the county or counties where said river or segment of river is situated. Notice of such public hearing shall be given by publishing a notice once each week for two consecutive weeks in a newspaper having general circulation in the county where said hearing is to be held, the second of said notices appearing not less than 10 days before said hearing. Any person attending said hearing shall be given an opportunity to be heard. Notwithstanding the provisions of the foregoing, no public hearing shall be required with respect to a river bounded solely by the property of one owner, who consents in writing to the addition of such river to the system.

The Department shall also conduct an investigation on the feasibility of the inclusion of a river or a segment of river within the system and file a written report with the Governor when submitting a proposal.

The Department shall also, before submitting such a proposal to the Governor or the General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining said river or segment of river of its intention to make such proposal. In the event the Department, after due diligence, is unable to determine the owner or lessee of any such land, the Department may publish a notice for four successive weeks in a newspaper having general circulation in the county where the land is situated of its intention to make a proposal to the Governor or General Assembly for the addition of a river or segment of river to the system.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1474 CHAPTER 912

AN ACT TO AMEND G.S. 105-60 TO EXCUSE DAY-CARE FACILITIES HAVING A TAX EXEMPT STATUS FROM PAYING THE PRIVILEGE LICENSE TAX FEE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-60 as the same appears in the 1972 Replacement Volume 2D of the General Statutes is hereby amended by striking the period appearing at the end thereof and adding the following proviso:

“; provided any day-care operation having a tax exempt status under the provisions of G.S. 105-125 and G.S. 105-130.11 is also exempt from paying the privilege license tax fees.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1482                      **CHAPTER 913**

AN ACT TO AMEND CHAPTER 743 OF THE SESSION LAWS OF 1951 RELATING TO THE NOMINATION AND ELECTION OF MEMBERS OF THE TRANSYLVANIA COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 743 of the Session Laws of 1951 is amended by adding at the end thereof the following:

“Those persons who shall be elected members of the board of education shall qualify by taking the oath of office on or before the first Monday in December next succeeding their election.”

**Sec. 2.** Section 4 of Chapter 743 of the Session Laws of 1951 is amended by rewriting that section as follows:

“Sec. 4. Vacancies in the membership of the board of education, for any cause, shall be filled immediately by the remaining members of the board. Any persons appointed due to vacancies in the membership of the board shall serve until the next general election for which nominees may qualify, at which election the unexpired term of the resigned member shall be filled by election.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1492                      **CHAPTER 914**

AN ACT TO AMEND G.S. 20-16.2 TO DELETE THE REFERENCE TO A REVOCATION UNDER THE PROVISIONS OF G.S. 20-16.3.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-16.2, as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes, is amended by deleting subsection (g) in its entirety and renumbering subsection (h) as (g).

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

H. B. 1515                      **CHAPTER 915**

AN ACT TO PERMIT ALAMANCE COUNTY COMMISSIONERS TO PRACTICE LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 418 of the 1965 Session Laws is hereby amended by deleting the words “Alamance and Iredell” from Section 2(a).

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1522

## CHAPTER 916

AN ACT TO AMEND GENERAL STATUTE 115-205.12 TO CLARIFY ENTRANCE AGE ELIGIBILITY OF KINDERGARTEN PUPILS.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statute 115-205.12 as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes is amended by inserting the words "on or" following the word "birth" and preceding the word "before" in the first sentence thereof.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1528

## CHAPTER 917

AN ACT TO CLOSE TEMPORARILY THE BEAR SEASON IN THE FIRST REPRESENTATIVE DISTRICT.

*The General Assembly of North Carolina enacts:*

**Section 1.** There shall be no open season for the taking of bears in Camden, Chowan, Currituck, Washington, Pasquotank and Perquimans Counties between the effective date of this act and October 1, 1979. After October 1, 1979, the open season for the taking of bears in the aforementioned counties shall be as established by the regulations of the North Carolina Wildlife Resources Commission.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1574

## CHAPTER 918

AN ACT REPEALING G.S. 66-29 RELATING TO AGREEMENTS FOR SPRAYING AND PRUNING NURSERY STOCK.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 66-29, as the same appears in Volume 2C of the General Statutes, is hereby repealed.

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1583

## CHAPTER 919

AN ACT TO PROVIDE FOR A TEN-DAY TEMPORARY MOTOR VEHICLE REGISTRATION MARKER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-50 is hereby amended by designating the now existing paragraph as subsection "(a)" and adding a new subsection to be designated "(b)" and to read as follows:

"(b) The Department may upon receipt of proper application upon a form supplied by the Department and an accompanying fee of three dollars (\$3.00)

## CHAPTER 919      Session Laws—1973

grant a 10-day temporary registration marker subject to the following limitations and conditions:

(1) Temporary 10-day registration markers shall be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.

(2) Temporary 10-day registration markers shall expire 10 days from the date of issuance.

(3) Temporary 10-day registration markers may be used only on the vehicle for which issued and may not be transferred, loaned or assigned to another.

(4) In the event a temporary 10-day registration marker is lost or stolen, notice shall be furnished to the Department.

(5) The Commissioner shall have the power to make such rules and regulations not inconsistent herewith as he shall deem necessary for the purpose of carrying out the provisions of this section.

(6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 shall apply in like manner to temporary 10-day registration markers as is applicable to nontemporary plates not by their nature rendered inapplicable."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1590      CHAPTER 920

AN ACT TO AMEND CHAPTER 101, SESSION LAWS OF 1973,  
RELATING TO THE COLUMBUS COUNTY PUBLIC SAFETY  
COMMISSION AND COUNTY POLICE FORCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 23 of Chapter 101, Session Laws of 1973, as the section is amended by Section 3 of Chapter 311, Session Laws of 1973, is hereby amended following the word "designate" and before the word "shall" in the first sentence of subsection (3) by striking the words "one policeman to serve as criminal investigator, then his salary" and inserting in lieu thereof following the word "designate" and before the word "shall" the words "one or more policemen to serve as criminal investigators, then the salary of each investigator".

**Sec. 2.** Section 4 of Chapter 101, Session Laws of 1973, as amended by Section 5 of Chapter 311, Session Laws of 1973, is amended by rewriting the last two sentences preceding the oath to read:

"The jailer, assistant jailer, and clerks or other personnel so designated by the Public Safety Commission shall have the same powers of arrest as the county policeman when performing their official duties and when called upon for assistance by the Chief or any policemen of the Columbus County Police Force.

The jailer, assistant jailers, and clerks or other personnel having the power of arrest, shall take and subscribe to the following oath before entering upon the discharge of their duties:"

**Sec. 3.** Section 4 of Chapter 101, Session Laws of 1973, as amended by Section 5 of Chapter 311, Session Laws of 1973, is further amended by inserting in the first sentence following the oath, immediately after the words "assistant jailer", the words "and clerks or other personnel having the power of arrest".

**Sec. 4.** Chapter 101, Session Laws of 1973, is amended by deleting the word and figure “ten (10)” in line two of Section 3, and inserting the word and figure “fifteen (15)”.

**Sec. 5.** Chapter 101, Session Laws of 1973, is further amended by deleting the words “to designate one (1) policeman who shall serve as a criminal investigator” in Section 15, and inserting in lieu thereof the words “to designate one or more policemen who shall serve as criminal investigators”.

**Sec. 6.** Chapter 101, Session Laws of 1973, is further amended by rewriting the second sentence of Section 16 to read:

“Said sheriff shall have no more than four deputies (either regular or special), one court officer, and one office deputy who shall serve as the sheriff’s clerk.”

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## H. B. 1730

## CHAPTER 921

AN ACT TO PROVIDE FOR THE CREATION OF AN INTERIM BOARD OF EDUCATION FOR WILSON COUNTY AND THE SUBSEQUENT CONSOLIDATION OF THE WILSON CITY SCHOOL ADMINISTRATIVE UNIT, THE ELM CITY ADMINISTRATIVE UNIT, AND THE WILSON COUNTY ADMINISTRATIVE UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** As used in this act certain terms are used as follows:

(a) The term “Wilson City Board” shall mean the Wilson City Board of Education and the term “Elm City Board” shall mean the Elm City Board of Education.

(b) The term “existing County Board” shall mean the existing Wilson County Board of Education.

(c) The term “Wilson County Interim Board of Education” shall mean a separate Board of Education established by this act for the purpose of planning, supervising, coordinating, contracting for and acquiring all new schools and plant sites to be built in Wilson County during the period of existence of the Wilson County Interim Board as hereinafter defined and for the purpose of performing all other acts and duties assigned to said Board under this act.

(d) The term “Wilson City Administrative Unit” shall mean the geographical territory over which the Wilson City Board of Education exercises authority in administering and operating the public schools of said unit.

(e) The term “Elm City Administrative Unit” shall mean the geographical territory over which the Elm City Board of Education exercises authority in administering and operating the public schools of said unit.

(f) The term “County administrative unit” shall mean the geographical territory over which the existing Wilson County Board of Education exercises authority in administering and operating the public schools of said unit.

(g) The term “County Commissioners” shall mean the Board of Commissioners of Wilson County.

(h) The term “Wilson County Board of Education” shall mean the single Board of Education hereinafter established by this act for the purpose of operating and administering all the public schools of Wilson County including those schools now operated and administered by the Wilson City Board of

Education, the Elm City Board of Education and the existing Wilson County Board of Education.

**Sec. 2.** The Wilson City Board of Education, the Elm City Board of Education and the existing Wilson County Board of Education, by majority vote of each of the said Boards, may mutually agree upon a Plan of Consolidation and Merger and may petition for approval of the same by the County Commissioners of Wilson County, all pursuant to the provisions of G.S. 115-74.1 of the General Statutes of North Carolina.

**Sec. 3.** Upon approval of the County Commissioners of Wilson County and of the State Board of Education of any Plan of Merger as provided for herein and as provided for in G.S. 115-74.1 of the General Statutes of North Carolina and after satisfying all other conditions of any Plan of Merger so approved, said Plan of Consolidation and Merger of the Elm City administrative unit, the Wilson City administrative unit and the existing Wilson County administrative unit shall be effective as of July 1, 1976; and within 30 days after said approval and after all the conditions of any Plan of Merger and Consolidation are met, the Interim Board of Education as hereinafter provided for, shall be established as a body politic and as such shall assume the authority and responsibility of the planning, supervision, coordinating, acquisition, contracting and construction as to all new school buildings to be built within the territorial limits of the resulting Board of Education and the said Interim Board shall meet within 30 days after its establishment for the purpose of organizing.

The Interim Board shall elect a Chairman to preside over its meetings and a Secretary and all members of the Interim Board shall be equally entitled to hold any office of the Board and all members of the Board shall have the right to vote on all matters coming before it. The Interim Board will also have the authority to employ such personnel and consultants as it deems necessary to carry out its duties and responsibilities. The Interim Board shall exercise all the powers and authority and duties that are now exercised and performed by the Elm City Board of Education, the Wilson City Board of Education and the existing Wilson County Board of Education as set forth in the General Statutes as they relate to the planning, selection and acquisition of school sites, entering into contracts for the construction of new school buildings and facilities and for the purpose of modernizing and renovating existing school buildings and for the purpose of obtaining equipment and supplies required for any facilities to be operated by the resulting Board of Education.

All powers and authority not specifically given to the Interim Board of Education under this act are specifically retained by the three existing Boards of Education.

For the purpose for which the Interim Board is hereby established, the Interim Board shall have all statutory powers given to Boards of Education in general with the authority to prepare and submit to the Board of Commissioners of Wilson County all necessary budgets, including supplemental budgets and at the time required by law shall prepare and submit to the Board of Commissioners of Wilson County all necessary capital outlay, debt service and current expense budgets. The Interim Board shall expend all funds in conformity with approved budgets.

In addition, the Interim Board shall have all the necessary powers and authority to make contracts, hire personnel and adopt policies and

administrative procedures, all as the same may relate to all matters for the school year 1976-1977 and for subsequent school years.

**Sec. 4.** In the event that a Plan of Merger and Consolidation is approved as provided for herein, the Interim Board of Education consisting of 10 members shall be created in addition to the three existing Boards of Education and the said Interim Board of Education shall remain in existence until such time as the Wilson County Board of Education as herein established shall be fully constituted and the members of the Interim Board of Education shall be appointed as follows: The seats on the Interim Board shall be numbered 1 through 10.

The Wilson City Board of Education from its membership shall appoint five members to fill seats 3, 4, 5, 9 and 10.

The Elm City Board of Education from its membership shall appoint two members to fill seats 1 and 7.

The existing County Board of Education from its membership shall appoint three members to fill seats 2, 6 and 8.

Such members of the Interim Board shall serve until July 1, 1976, the effective date of the merger and consolidation of the three administrative units herein provided for.

As of July 1, 1976, the Interim Board shall be and become the Wilson County Board of Education, at which time the Wilson County Board of Education shall consist of 10 members (until 1978 as hereinafter provided) and the members thereof shall be appointed as follows:

Seat No. 1 shall be filled by that member of the Interim Board or his duly qualified successor who shall have originally been appointed to that seat by the Elm City Board of Education.

Seat No. 2 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the existing County Board of Education.

Seat No. 3 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the Wilson City Board of Education.

Seat No. 4 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the Wilson City Board of Education.

Seat No. 5 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the Wilson City Board of Education.

Seat No. 6 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the existing Wilson County Board of Education.

Seat No. 7 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the existing Elm City Board of Education.

Seat No. 8 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the existing County Board of Education.

Seat No. 9 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the Wilson City Board of Education.

Seat No. 10 shall be filled by that member of the Interim Board of Education or his duly qualified successor who shall have originally been appointed to that seat by the Wilson City Board of Education.

All terms of office for each member of the resulting Wilson County Board of Education shall commence on July 1, 1976, and the term of office for each seat of said Wilson County Board of Education shall be as follows:

The term of office for Seat No. 1 shall expire on the second Monday in January of 1983.

The term of office for Seat No. 2 shall expire on the second Monday in January of 1983.

The term of office for Seat No. 3 shall expire on the second Monday in January of 1983.

The term of office for Seat No. 4 shall expire on the second Monday in January of 1981.

The term of office for Seat No. 5 shall expire on the second Monday in January of 1981.

The term of office for Seat No. 6 shall expire on the second Monday in January of 1981.

The term of office for Seat No. 7 shall expire on the second Monday in January of 1979.

The term of office for Seat No. 8 shall expire on the second Monday in January of 1979.

The term of office for Seat No. 9 shall expire on the second Monday in January of 1979.

The term of office for Seat No. 10 shall expire on the second Monday in January of 1979.

At the time of the general election during the year 1978 there shall be elected three members to the Wilson County Board of Education, who after their qualifications, shall fill Seats 7, 8 and 9. Said members shall be residents of Wilson County and shall be elected by the voters of Wilson County at large.

The three candidates receiving the highest number of votes shall be so declared elected for a six-year term. The candidate receiving the highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 7. The candidate receiving the second highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 8. The candidate receiving the third highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 9.

When the term of office for the member holding Seat No. 10 expires as provided for above, Seat No. 10 on the Wilson County Board of Education shall be abolished and the membership of said Board of Education shall be reduced to nine.

At the time of the general election during the year 1980, there shall be elected three members to the Wilson County Board of Education who after their qualification shall fill Seats 4, 5 and 6. Said members shall be residents of Wilson County and shall be elected by the voters of Wilson County at large.

The three candidates receiving the highest number of votes shall be so declared elected for a six-year term. The candidate receiving the highest

number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 4. The candidate receiving the second highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 5. The candidate receiving the third highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 6.

At the time of the general election in the year 1982, there shall be elected three members to the Wilson County Board of Education who, after their qualification, shall fill Seats 1, 2 and 3. Said members shall be residents of Wilson County and shall be elected by the voters of Wilson County at large.

The three candidates receiving the highest number of votes shall be so declared elected for a six-year term. The candidate receiving the highest number of votes in the election shall be certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 1. The candidate receiving the second highest number of votes in the election shall be so certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 2. The candidate receiving the third highest number of votes in the election shall be so certified and declared by the Board of Elections to be a member of the Wilson County Board of Education and shall fill Seat No. 3.

The members of the Wilson County Board of Education elected in the general elections of 1978, 1980 and 1982 shall take office on the second Monday in January of the year following the election. The terms of their office shall date and extend from that time.

All vacancies in membership of the Wilson County Board of Education by reason of death, resignation or removal from Wilson County or otherwise, shall be filled by the remaining members of the said Board of Education. The member so elected must be a resident of Wilson County and shall fill the seat vacated by his predecessor for the remainder of the unexpired term.

In the event that any seat on the Wilson County Board of Education is not filled as a result of a general election in any year when the term of office for that said seat is to expire, immediately following said election, the Wilson County Board of Education shall declare a vacancy on the second day of January next following the general election and such vacancy shall be filled in accordance with the preceding paragraph.

As the term of office for each seat of the Wilson County Board of Education expires from and after 1979 (except for Seat No. 10), elections in the general election immediately preceding the expiration dates for each seat shall be held for the election of successor members of the Wilson County Board of Education to fill the seats so expiring and the election of all members of the Wilson County Board of Education shall be nonpartisan and said candidates for membership on the Wilson County Board of Education shall be residents of Wilson County and shall be elected by the voters of Wilson County at large; and all such elections shall be held in the general elections of the County in even-numbered years and shall be held, conducted and supervised by the Board of Elections and except as herein provided, the general election laws and regulations for the nomination and elections of County officers as set forth in Chapter 153 of the General Statutes of North Carolina as amended shall apply

and govern as to the holding of said elections. The term of office for each seat of the Wilson County Board of Education shall be for six years and the seat designation for members elected shall be the same as that provided for in the preceding paragraphs of this section.

**Sec. 5.** The Interim Board of Education shall cease as a body politic on July 1, 1976, when the Wilson County Board of Education shall assume authority and its members shall take office as herein provided.

**Sec. 6.** If a vacancy occurs on the Interim Board of Education by reason of death, resignation, removal from office or otherwise, then in that event, the existing Board of Education who originally appointed the member to said seat shall appoint from its membership a successor to fill the vacant seat on the said Interim Board of Education; provided, however, that such successor must be a resident of Wilson County.

**Sec. 7.** Upon the creation of the Interim Board and until July 1, 1976, the Elm City Board of Education and the Wilson City Board of Education and the existing County Board of Education shall continue to exercise all powers and authority with respect to the administration and operation of all existing schools in the administrative unit of each respective Board of Education, together with all the powers conferred by law except those which are specifically given to the Interim Board of Education hereunder.

The financial administration of the Wilson City Board of Education, the Elm City Board of Education and the existing County Board of Education until otherwise terminated herein shall be governed by the provisions of the General Statutes of North Carolina except that the Interim Board of Education shall have specific authority between January 1, 1976 and July 1, 1976 to prepare and submit to the Board of County Commissioners all necessary budgets, including supplemental budgets and at the time required by law to prepare and submit to the Board of County Commissioners all the necessary capital outlay, debt service and current expense budgets for school purposes all for and in behalf of the Wilson County Board of Education notwithstanding the creation of the Wilson County Board of Education until July 1, 1976.

**Sec. 8.** When any vacancy occurs on the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education prior to July 1, 1976, such vacancy shall be filled in the manner now provided by law.

If the Interim Board of Education is created as herein provided for, then in that event, all members of the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education whose terms would ordinarily expire in 1976 shall remain members of said Board of Education until July 1, 1976, and upon the creation of the Interim Board of Education as herein provided for, all public elections for membership to the three existing Boards of Education, to-wit, the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education shall be suspended during the year 1976.

**Sec. 9.** As of July 1, 1976, when the Wilson County Board of Education shall assume all of the authority of administering and operating all schools in the existing Wilson County administrative unit, the Elm City administrative unit, and the Wilson City administrative unit, all authority and power of the Elm City Board of Education, the Wilson City Board of Education and the existing Wilson County Board of Education and the Interim County Board of

Education shall cease and terminate and the same shall be vested in the Wilson County Board of Education and the resulting Wilson County Board of Education shall control, administer and operate all the schools formerly administered by the existing three administrative units.

**Sec. 10.** Upon approval of the Plan of Consolidation and Merger as herein provided for as of July 1, 1976, the title to all property of the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education and the Interim Board of Education, both real and personal, of every kind and description shall be vested in the resulting Wilson County Board of Education; and the said Boards of Education shall have full and ample authority between June 15, 1976, and July 1, 1976, to execute all deeds and other instruments of conveyance as may be deemed necessary to vest record title to any such property heretofore held by them in and to the Wilson County Board of Education as of July 1, 1976. All claims and demands of every kind which the Elm City Board of Education, the Wilson City Board of Education and the existing Wilson County Board of Education and the Interim Board of Education may have as of such date, to-wit, July 1, 1976, shall pass and be transferred to the Wilson County Board of Education, and said Wilson County Board of Education shall have the same powers and authority to enforce said claims and demands as its predecessors would have had in the event of their continued existence. Any obligations and liabilities of any predecessor Board of Education shall be and become the obligation and liability of the Wilson County Board of Education as of July 1, 1976, and such obligations and liabilities may be enforced against the said Wilson County Board of Education thereafter to the same extent that they might have been enforced against its predecessors had they continued in existence.

As of July 1, 1976, the Wilson County Board of Education shall have all the power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on Boards of Education in general.

**Sec. 11.** The merger and consolidation of the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education shall be conditioned upon approval of a Plan of Merger and Consolidation entered into and agreed upon by a majority of the members of the Elm City Board of Education, by a majority of the members of the Wilson City Board of Education and by a majority of the members of the existing County Board of Education, which Plan shall then be submitted to the Board of County Commissioners of Wilson County for its concurrence and approval, and approved by the State Board of Education all as provided in G.S. 115-74.1.

If a Plan of Merger and Consolidation of the Elm City Board of Education, the Wilson City Board of Education and the existing County Board of Education is not approved by all of the necessary Boards of Education and the County Commissioners of Wilson County and the State Board of Education by July 1, 1975, together with all other conditions of any such Plan of Merger and Consolidation, then and in that event, all the provisions of this act shall become null and void.

**Sec. 12.** Upon approval of a Plan of Consolidation and Merger as herein provided for and upon the establishment of the Interim Board of Education as herein provided for, then and in that event, all existing laws providing for the election and reelection of members to the existing Elm City Board of Education,

the Wilson City Board of Education and the existing Wilson County Board of Education shall be suspended as of January 1, 1976, the same as if repealed, and the terms of office of the members of the three existing Boards of Education shall continue until the termination of each respective Board of Education hereunder and the election procedures for membership to the Interim Board and the resulting Wilson County Board of Education to be established as of July 1, 1976, hereunder shall control.

**Sec. 13.** The purpose of this act is to provide an enabling statute in addition to the other statutes which may be available for such purposes for the merger of the Elm City administrative unit, the Wilson City administrative unit and the existing Wilson County administrative unit.

**Sec. 14.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of March, 1974.

## S. B. 979

## CHAPTER 922

AN ACT TO AMEND G.S. 9-22 RELATING TO THE TERM OF SERVICE OF GRAND JURORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 9-22(a) is amended by deleting the sentence, "All new grand jurors so selected shall serve for a period of 12 months, and until their replacements are selected and sworn", and inserting in lieu thereof the sentence, "All new grand jurors so selected shall serve for a period of approximately 12 months, until the first criminal session of superior court after January 1 or July 1, as the case may be, and until their replacements are selected and sworn."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1974.

## H. B. 1188

## CHAPTER 923

AN ACT TO AMEND RULE 34 OF THE RULES OF CIVIL PROCEDURE TO ELIMINATE THE CLERK OF COURT, EXCEPT IN PROCEEDINGS PENDING BEFORE HIM, AS AN OFFICER WHO CAN COMPEL THE PRODUCTION OF DOCUMENTS, UNDER RULE 34.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1A-1 of the General Statutes, Rule 34, is hereby amended by deleting the opening paragraph and substituting the following:

"Discovery on court order. Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to the provisions of Rule 30(b), a judge of the court in which an action or proceeding is pending, a magistrate to whom a small claim has been assigned under the provisions of G.S. 7A-213, a referee appointed under the provisions of G.S. 1A-1, Rule 53(c), as defined by Rule 30(h), or the clerk of the court before whom a proceeding is pending, may".

**Sec. 2.** This act shall be in full force and effect on and after January 1, 1975, and shall apply to actions and proceedings pending on that date as well as to actions and proceedings commenced on and after that date.

In the General Assembly read three times and ratified, this the 5th day of March, 1974.

**H. B. 1475****CHAPTER 924**

AN ACT TO AMEND CHAPTER 362 OF THE 1953 SESSION LAWS, WHICH AMENDED G.S. 152-5, IN REGARD TO CORONER'S FEES IN HALIFAX COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 362 of the 1953 Session Laws is hereby amended on line six by deleting the words and figures "ten dollars (\$10.00)" and inserting in lieu thereof the words and figures "twenty dollars (\$20.00)".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1974.

**H. B. 1653****CHAPTER 925**

AN ACT TO PROVIDE FOR ANNEXATION BY THE CITY OF GASTONIA OF MUNICIPALLY-OWNED REAL PROPERTY NOT CONTIGUOUS TO ITS CORPORATE LIMITS.

Whereas, Article 4A of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing by a municipality of its own real property when the same is not contiguous to the municipal boundaries; and

Whereas, it would be in the interest of the public health, safety and welfare to permit annexation of non-contiguous real property owned by the City of Gastonia so that police and fire protection and other municipal services might be made more readily available; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The City Council of the City of Gastonia is authorized to annex by ordinance any real property which it owns although not contiguous to the municipal corporate boundaries.

**Sec. 2.** If the City Council of the City of Gastonia desires to annex territory under the provisions of this act, it shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for public hearing on the question of annexation, the date for such public hearing to be not less than 10 days and not more than 30 days following passage of the resolution.

**Sec. 3.** Such notice shall be published once in a newspaper having general circulation in the City of Gastonia at least 10 days prior to the date of the public hearing.

**Sec. 4.** At the public hearing a representative of the City of Gastonia shall first make an explanation of what territory is involved and why the area is being considered for annexation. Following such explanation, any citizen shall be given an opportunity to be heard.

**Sec. 5.** After the hearing, the City Council of the City of Gastonia shall have the authority to pass an ordinance annexing the territory described in the resolution of intent and shall have authority to make the annexing ordinance effective immediately or on any specified date within six months from the date of the passage of the ordinance.

**Sec. 6.** From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Gastonia. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the County a record of property in the area being annexed which was listed for taxation as of said January 1.

**Sec. 7.** The power of the City of Gastonia to regulate land use pursuant to Article 19, Chapter 160A of the General Statutes of North Carolina to abate public health nuisances pursuant to Section 160A-193 of the General Statutes of North Carolina, shall be the same within that area consisting of the Gastonia Municipal Airport property as within its primary corporate limits. The boundaries of the Airport property shall be considered a part of the City's corporate limits for the purposes of extraterritorial land use regulation or abatement of public health nuisances, within Gaston County only.

**Sec. 8.** If a provision of this act or the application of a provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application and to this end the provisions of this act are severable.

**Sec. 9.** All laws or clauses of laws in conflict with the provisions of this act are repealed.

**Sec. 10.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1974.

## H. B. 1556

## CHAPTER 926

AN ACT TO AMEND G.S. 113-109.8 TO INCLUDE CURRITUCK COUNTY IN THE LIST OF COUNTIES EXCLUDED FROM THE COVERAGE OF ARTICLE 7A, CHAPTER 113 RELATING TO SAFE DISTANCES FOR HUNTING MIGRATORY WILD WATERFOWL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-109.8 as the same appears in the 1973 Cumulative Supplement to Volume 3A is amended by inserting the words, "Currituck", "Dare" and "Onslow" in proper alphabetical order in the list of counties set out in line 2 of the section.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of March, 1975.

S. B. 675

**CHAPTER 927**

AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES BY ADDING A SECTION RELATING TO JUDGMENT IN DIVORCE ACTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 50 of the General Statutes is hereby amended by adding at the end thereof a new section to be numbered G.S. 50-10.1 and to read as follows:

“Where the court has the requisite jurisdiction and upon proper pleadings and proper and due notice to all interested parties the judgment in a divorce action may contain such provisions respecting care, custody, tuition and maintenance of the minor children of the marriage as the court may adjudge; and from time to time such provisions may be modified upon due notice and hearing and a showing of a substantial change in condition; and if there be no minor children, the judgment may so state.”

**Sec. 2.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

S. B. 934

**CHAPTER 928**

AN ACT AUTHORIZING GUILFORD COUNTY TO ADOPT A MORE CONVENIENT SITE THAN THE COURTHOUSE DOOR OR STEPS FOR THE POSTING OF ANY NOTICE REQUIRED BY LAW AT SUCH SITE.

*The General Assembly of North Carolina enacts:*

**Section 1.** If Guilford County should determine that the traditional location of the “courthouse”, the “courthouse door”, the “courthouse bulletin board” or the “courthouse steps” has become inappropriate or inconvenient for the posting of any notice required by law to be posted at such a site, Guilford County is hereby authorized and empowered to designate by ordinance some appropriate or more convenient location for the posting of such notices within the Guilford County Courthouse. The Guilford County Board of Commissioners shall cause such an ordinance to be published at least once within 30 days after the day it is adopted and shall cause a copy of it to be posted for 60 days at the traditional location.

**Sec. 2.** Chapter 340, 1973 Session Laws is repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## S. B. 994

## CHAPTER 929

## AN ACT TO AMEND G.S. 143-215 RELATING TO EFFLUENT STANDARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215, as it appears in the 1973 Interim Supplement to Volume 3C of the General Statutes is hereby amended by adding to the end thereof a new subsection (c) to read as follows:

“(c) In adopting effluent standards and limitations the Board shall be guided by the same considerations and criteria set forth, from time to time, in federal law for the guidance of federal agencies administering the Federal Water Pollution Control Program. It is the intent of the General Assembly that the effluent standards and limitations adopted hereunder shall be no more restrictive than the most nearly applicable federal effluent standards and limitations.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## S. B. 1111

## CHAPTER 930

## AN ACT TO FIX THE SALARIES OF THE CHAIRMAN AND MEMBERS OF THE BERTIE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-29 is hereby amended by adding the following at the end of the first paragraph thereof:

“Provided that the compensation of members of the Bertie County Board of Education is hereby affixed at forty dollars (\$40.00) per month and fifty dollars (\$50.00) per month for the chairman. Reimbursement for travel for each member of the board of education shall be at the same rate as approved by the State Board of Education for State employees.”

**Sec. 2.** All laws and clauses of laws in conflict herewith are repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1473

## CHAPTER 931

## AN ACT TO MAKE A TECHNICAL AMENDMENT IN THE LAW RELATING TO THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-166(i), fourth paragraph as the same appears in Volume 3C of the 1971 Cumulative Supplement of the General Statutes of North Carolina is hereby amended by deleting therefrom at lines 3 and 4 the words “an amount equal to three times the value of his prior service and an amount equal to three times the cost of matching his contribution”, and inserting in lieu thereof, the following words: “a matching contribution ...”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1529

### CHAPTER 932

AN ACT TO AMEND G.S. 115-189 INCREASING THE AMOUNT A COUNTY OR CITY BOARD OF EDUCATION MAY PROVIDE IN LIEU OF SCHOOL BUS TRANSPORTATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-189(b), as the same appears in Volume 3A, 1966 Replacement of the General Statutes, is hereby amended by striking out the words and figures "twenty-five dollars (\$25.00)" in line 8 of subsection (b) and inserting in lieu thereof the words and figures "fifty dollars (\$50.00)".

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1621

### CHAPTER 933

AN ACT TO AMEND G.S. 28-8 TO ALLOW PERSONS EIGHTEEN YEARS OLD AND OLDER TO BE ISSUED LETTERS OF ADMINISTRATION OR LETTERS TESTAMENTARY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 28-8 as it appears in 1966 Replacement Volume 2A of the General Statutes of North Carolina is amended by rewriting subsection (1) to read as follows:

"(1) Is under the age of eighteen years."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1622

### CHAPTER 934

AN ACT TO AMEND CHAPTER 653, SESSION LAWS OF 1965, TO ENLARGE THE JURISDICTION OF ABC OFFICERS EMPLOYED BY THE LEXINGTON ABC BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapter 653, Session Laws of 1965, is amended by adding a new paragraph at the end thereof to read:

"The Lexington Board of Alcoholic Control shall have the authority to employ one or more ABC law enforcement officers to be appointed by and directly responsible to the Board. The officers so appointed shall have the same powers, authority and jurisdiction throughout the County of Davidson, and the municipalities therein, as other peace officers of the County and its municipalities, including the powers conferred upon local ABC officers in G.S. 18A-20. The Board shall expend for law enforcement not less than five percent (5%) nor more than fifteen percent (15%) of the gross profits derived from operation of liquor control stores to be determined by quarterly audits."

**Sec. 2.** This act shall become effective upon ratification.

CHAPTER 934            Session Laws—1973

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1623                            **CHAPTER 935**

AN ACT TO PROVIDE FOR COMPENSATION OF THE MEMBERS OF THE HYDE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The compensation for the Chairman and other members of the Hyde County Board of Education is hereby fixed at forty dollars (\$40.00) per meeting and ten cents (10¢) per mile for each mile traveled in going to and from meetings of the Board.

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1624                            **CHAPTER 936**

AN ACT TO AMEND CHAPTER 195 OF THE 1967 SESSION LAWS TO INCREASE THE PERCENTAGE OF THE NET PROFITS FROM ABC REVENUE TO GO TOWARD LAW ENFORCEMENT IN CONCORD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 7 of Chapter 195 of the 1967 Session Laws is hereby amended by deleting the words and figure “five percent (5%)” on the fourth line of that section and inserting in lieu thereof the words and figure “ten percent (10%)”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1632                            **CHAPTER 937**

AN ACT DIRECTING THAT MEMBERS OF VANCE COUNTY BOARD OF ALCOHOLIC CONTROL SHALL BE SELECTED BY CERTAIN DESIGNATED OFFICIALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The members of the county board of alcoholic control of Vance County shall be selected in a joint meeting of the board of county commissioners, the Chairman of the county board of education, the Mayor of the Town of Henderson and the Chairman or Vice-Chairman of the district health department. Such Chairman or Vice-Chairman of the district health department participating in the selection shall be the officer who is a citizen and resident of Vance County at the time the selection is made.

**Sec. 2.** The method of selection herein set forth shall be employed upon the next occurring vacancy or vacancies in the Vance County Board of Alcoholic Control and thereafter.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1655

## CHAPTER 938

AN ACT TO AMEND CHAPTER 918 OF THE 1951 SESSION LAWS RELATING TO EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF WILMINGTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of Section 2 of Chapter 918 of the 1951 Session Laws is hereby repealed and the following enacted in lieu thereof:

“(b) That when any employee member of the retirement system retires under the provisions of this act and dies leaving a surviving spouse, in that event such surviving spouse shall receive from the retirement fund a sum equal to fifty percent (50%) of the amount paid to the retired employee or twenty-five dollars (\$25.00) per month, whichever is greater until the remarriage or death of such surviving spouse.”

**Sec. 2.** This act shall be in full force and effect from and after January 1, 1974.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1656

## CHAPTER 939

AN ACT TO AMEND CHAPTER 684 OF THE 1949 SESSION LAWS AS AMENDED RELATING TO THE FIREMEN'S PENSION FUND OF THE CITY OF WILMINGTON.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6 of Chapter 684 of the 1949 Session Laws is hereby amended to read as follows:

“(6) Should any member of the Fire Department die before retirement, and who prior to his death was in either of the following classifications:

(a) while in the actual performance of duty, and by reason of the performance of such duty, and without fault or misconduct on his part, shall become permanently disabled, physically or mentally, so as to be unfitted to perform the duties of the Fire Department, a pension, which shall be one-half of the salary such member was receiving from the Department at the time of such disability or its cause, and shall be granted for the life of such disabled member, upon his death, a pension shall be paid to his beneficiaries as hereinafter provided; or

(b) was killed or dies from injuries or the results thereof while in the performance of duty or from disease contracted in the performance of duty, the board shall pay a pension based on one-half of the amount he would have been paid had he been retired at the time of his death, to said member's widow or children or beneficiaries as hereinafter provided for in this act; or

(c) was in the ten to twenty year service classification; or

(d) was in the twenty year or twenty-five year service classification; or

(e) any member who shall retire, or be retired, or become eligible to retire and be entitled to a pension, as provided for; then, and in either event, the following contingencies are hereby provided for said member's widow and

dependent children, and other beneficiaries and they shall be paid out of said pension fund as follows:

(1) should he predecease his wife, then upon his death she shall be paid monthly, until her remarriage or death, fifty percent (50%) of the amount paid him, or which would have been paid him had he been retired, in whatever classification he was in or was entitled to be in, as above set out, at the time of his death;

(2) and in addition, ten dollars (\$10.00) monthly for each dependent child of said member, up to and for three children at any one time only, until each child shall become eighteen years of age, and said amount shall be paid to the mother or to the duly appointed and acting guardian of such minor child or children for the use and benefit of said child or children;

(3) should any member as above classified, (a) die, having never married, or (b) should he survive his wife, and subsequently die, leaving surviving him no child or children under eighteen years of age, or (c) upon the death or remarriage of his surviving widow and the attainment of eighteen years of age of all his children, then, or in either event, should his mother then be living, she shall be paid until her death or remarriage fifty percent (50%) of the amount of his pension to which he would have been entitled as herein provided; ONLY, however, if the Board of Trustees shall find at the time of his death he was the chief means of support to his mother; (4) should he die leaving none of the above named beneficiaries, or should none of them qualify in accordance with the above requirements, then, and in either event, a sum not to exceed three hundred dollars (\$300.00) shall be paid out of said pension fund for his burial expenses.”

**Sec. 2.** This act shall be in full force and effect from and after January 1, 1974.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1657

## CHAPTER 940

AN ACT TO AMEND CHAPTER 253, SESSION LAWS OF 1967 RELATING TO THE CHARTER OF THE CITY OF WILMINGTON IN NEW HANOVER COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 253, Session Laws of 1967, is rewritten to read:

“Sec. 11.7. Examination of Applicants for Police Officers or Firemen Required; Nature of Examination; Regulations as to Moral Character of Applicants; Credit for Prior Experience and Service; Age of Applicants.

All applicants for positions of police officers or firemen of the City of Wilmington shall be subject to a written examination which shall be competitive and free to all persons meeting all requirements that have been prescribed by such city subject to reasonable and proper limitations as to age, health and moral character, which examinations shall be practical in their character and shall relate to those matters tending to fairly test the capacity and qualifications of the applicants to discharge the duties of the position to which they seek employment and shall include examinations as to physical and mental

qualifications as well as general fitness; but no person shall be appointed as a fireman or police officer who is less than 21 years of age.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1727

## CHAPTER 941

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE TOWN OF SMITHFIELD AND TO MODIFY THE APPLICATION OF G.S. 118-5, G.S. 118-6, AND G.S. 118-7 TO THE TOWN OF SMITHFIELD.

*The General Assembly of North Carolina enacts:*

**Section 1.** Supplemental Retirement Fund Created. The Board of Trustees of the Local Firemen’s Relief Fund of the Town of Smithfield, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Smithfield Firemen’s Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such Fund separate from the books of account of the Firemen’s Local Relief Fund of the Town of Smithfield, hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this act.

**Sec. 2.** Transfers of Funds and Disbursements. Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen’s Relief Fund of the Town of Smithfield shall:

(a) prior to January 31, 1975 and in each January thereafter, transfer to the Supplemental Retirement Fund all earnings on investments of the Local Relief Fund.

(b) as soon as practicable after January 1 of each year, but in no event later than July 1, divide funds belonging to the Supplemental Retirement Fund into equal shares and disburse the same as supplemental retirement benefits in accordance with Section 3 of this act.

**Sec. 3.** Supplemental Retirement Benefits. (a) Each retired fireman of the Town of Smithfield who has previously retired with twenty (20) years service or more as a Town of Smithfield fireman, and who retired subsequent to attaining the age of fifty-five (55) years, shall be entitled to and shall receive an annual supplemental retirement benefit equal to one share for each full year of service as a fireman of the Town of Smithfield; provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of six hundred dollars (\$600.00).

(b) Any former firemen of the Town of Smithfield who are not otherwise entitled to supplemental retirement benefits under subsection (a) of this Section, shall nevertheless be entitled to such benefits in any calendar year in which the Board of Trustees makes the following written findings of fact:

- (1) that he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and
- (2) that, within thirty (30) days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in

North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active fireman; and

- (3) that, since the preceding January 1, a physician licensed to practice medicine in North Carolina has certified that he remains unable, by reason of sickness or injury, to perform the normal duties of an active fireman; provided, that the Board of Trustees, after initially making the findings of fact specified in (1) and (2) of this subsection, need not specify such findings in subsequent calendar years.

**Sec. 4. Intention.** It is the intention of Sections 1, 2, and 3 of this act to authorize the disbursement as supplemental retirement benefits only of the funds belonging to the Supplemental Retirement Fund.

**Sec. 5. Investment of Funds.** The Board of Trustees is hereby authorized and directed to invest all of the funds of the Local Firemen's Relief Fund in one or more of the investments named in or authorized by G.S. 159-28.1.

**Sec. 6. Bond of Treasurer.** The Board of Trustees shall bond the Treasurer of the Local Firemen's Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Firemen's Relief Fund the premiums on the bond of the Treasurer.

**Sec. 7. City Authorized to Make Payment.** The Board of Commissioners of the Town of Smithfield is hereby authorized and may at its discretion make appropriations and disburse funds to the Supplemental Retirement Fund.

**Sec. 8.** If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

**Sec. 9.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 10.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1734

## CHAPTER 942

AN ACT TO AMEND CHAPTER 159 OF THE GENERAL STATUTES WHICH REQUIRES THE ALBEMARLE HOSPITAL, A COUNTY HOSPITAL, TO FILE COPIES OF ITS ANNUAL BUDGET WITH THE BOARD OF COUNTY COMMISSIONERS OR THE BUDGET OFFICER FOR THE PURPOSE OF PUBLICATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Albemarle Hospital, a county hospital, shall not be required to file copies of its annual budget with the budget officer or the Board of County Commissioners of Pasquotank County for the purpose of publication as required by Chapter 159 of the General Statutes.

**Sec. 2.** This act shall not prohibit the County Commissioners of Pasquotank County from receiving or reviewing the budget of the aforesaid

county hospital; however, the same shall not be required to be published with the county budget.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

H. B. 1741

**CHAPTER 943**

AN ACT TO ALTER THE MEMBERSHIP OF THE ROCKY MOUNT PLANNING BOARD AND BOARD OF ADJUSTMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 938, Session Laws of 1963, is hereby amended by rewriting Section 301(b) and Section 302 of Article 1 of Chapter VIII, thereof, to read as follows:

“Sec. 301(b). There is hereby created the Rocky Mount Planning Board which shall consist of 12 members. Six of said members shall be residents of the City of Rocky Mount and appointed by the City Council of the City of Rocky Mount; three of said members shall reside in Nash County in the area between the corporate limits of the City of Rocky Mount and the outer boundary of the extraterritorial area subject to zoning regulation by the City of Rocky Mount and shall be appointed by the Nash County Board of Commissioners; three of said members shall reside in Edgecombe County in the area between the corporate limits of the City of Rocky Mount and the outer boundary of the extraterritorial area subject to zoning regulation of the City of Rocky Mount and shall be appointed by the Edgecombe County Board of Commissioners.

“Sec. 302. *Board of Adjustment.*—There is hereby created the Rocky Mount Board of Adjustment which shall consist of 12 members. Six of said members shall be residents of the City of Rocky Mount and appointed by the City Council of the City of Rocky Mount; three of said members shall reside in Nash County in the area between the corporate limits of the City of Rocky Mount and the outer boundary of the extraterritorial area subject to zoning regulation by the City of Rocky Mount and appointed by the Nash County Board of Commissioners; three of said members shall reside in Edgecombe County in the area between the corporate limits of the City of Rocky Mount and the outer boundary of the extraterritorial area subject to zoning regulation of the City of Rocky Mount and appointed by the Edgecombe County Board of Commissioners. The Board of Adjustment shall appoint such attorney or attorneys to advise it as appears necessary, except, however, that such attorney or attorneys shall not be the same person or persons as are the City Attorneys.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1746

## CHAPTER 944

## AN ACT TO AMEND CHAPTER 220 OF THE 1973 SESSION LAWS WHICH ESTABLISHED THE LIMITS OF AUTHORITY OF THE GUILFORD COUNTY MANAGER.

*The General Assembly of North Carolina enacts:*

**Section 1.** Paragraph 1 of Section 1 of Chapter 220 of the Session Laws of 1973 is hereby amended on line 2 by inserting immediately preceding the word "at" the words "or year to year,".

**Sec. 2.** Section 1 of Chapter 220 of the Session Laws of 1973 is further amended by adding new paragraphs 7 and 8 at the end thereof to read as follows:

"7. To lease from private or other public entities, land and/or improvements up to one year and at a rental to be negotiated by the County Manager.

8. To authorize the Clerk to the Board to attest the County Manager's signature on any instruments as herein authorized and to place Guilford County's seal thereon."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1747

## CHAPTER 945

## AN ACT TO TRANSFER CERTAIN LAND FROM THE STATE OF NORTH CAROLINA TO THE GRANVILLE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby transferred, in fee simple absolute, from the State of North Carolina to the Granville County Board of Education that parcel of land in Butner, North Carolina, more particularly described as follows:

"BEGINNING at a point said point being 300 feet from the point of intersection of the Northern side of D Street and the Eastern side of Central Avenue; thence running along and with the Northern side of D Street in an Easterly direction approximately 1250 feet to a point; thence in a Northerly direction approximately 1360 feet to the Southern side of E Street; thence running along and with the property line on the Southern side of E Street in a Westerly direction approximately 1250 feet; thence in a Southerly direction approximately 1360 feet said point being the point and place of the beginning and containing approximately 39 acres of land."

**Sec. 2.** This transfer shall be represented by a quitclaim deed from the State to the Granville County Board of Education as soon as may be practical for the Council of State to prepare and sign same.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1748

## CHAPTER 946

## AN ACT TO PERMIT THE COUNTY COMMISSIONERS OF GRANVILLE COUNTY TO APPOINT THE GRANVILLE COUNTY BOARD OF ALCOHOLIC CONTROL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-16, as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes, is hereby modified with regard to Granville County as follows:

“The provisions of G.S. 18A-16 notwithstanding, the members of the Granville County Board of Alcoholic Control shall be selected initially and in the event of vacancies, and shall be removed by majority vote of the Board of County Commissioners of Granville County. However, except as expressly modified by the foregoing, G.S. 18A-16 shall remain in effect with regard to the Granville County Board of Alcoholic Control.”

**Sec. 2.** This act shall apply to appointments made after the expiration of all terms now being served, and to vacancies occurring or continuing after the effective date of this legislation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

## H. B. 1836

## CHAPTER 947

## AN ACT TO CREATE THE HENDERSON COUNTY FIRE COMMISSION AND TO DEFINE ITS DUTIES AND RESPONSIBILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** There shall be created in the County of Henderson a Fire Commission consisting of three members whose duties shall be:

(a) Advising the Board of County Commissioners on improvements in the fire-fighting or fire prevention activities under the County's supervision or control.

(b) Assisting incorporated volunteer fire departments in developing and improving their fire-fighting or fire prevention capabilities.

(c) To insure that all fire prevention inspections required by North Carolina law are made by the various Fire Departments in Henderson County.

(d) To inspect incorporated volunteer Fire Departments having contracts with the County, or proposing to enter into contracts with the County to determine whether or not these Departments are in compliance with the standards required by the North Carolina Fire Insurance Rating Bureau.

**Sec. 2.** The Fire Commission shall be appointed by the Board of Commissioners of Henderson County. The term of office of the initial Fire Commissioners shall expire December 31, 1975, or thereafter when their successors are appointed. Each succeeding term of office shall be for a period of two years, expiring on the 31st day of December of each odd-numbered year, or thereafter upon the appointment of their successors. The Fire Commissioners shall serve without compensation, but may be reimbursed for actual expenses incurred. Any Commissioner shall be eligible to succeed himself.

**Sec. 3.** The Henderson County Volunteer Firemen's Association will submit to the Board of County Commissioners nominations of not less than five

nor more than nine qualified persons for appointment as Fire Commissioners. Such nominations should be submitted immediately for the initial appointment, and thereafter not later than December 1st of each odd-numbered year for the term beginning the following January 1st. (The Board of County Commissioners reserves the right to appoint as Fire Commissioners persons who have not been nominated by the Henderson County Volunteer Firemen's Association.)

**Sec. 4.** The Fire Commission may accept, in behalf of Henderson County, any gift, grant, bequest or donation of money or personal property offered or made for fire protection purposes to the County. Any money or property so accepted shall be owned by Henderson County and shall be held, used and finally disposed of in accordance with the terms or conditions under which such gift, grant or bequest was made. Any proposed grant or devise of real estate for fire protection purposes shall be reported by the Fire Commission to the Board of County Commissioners for acceptance or rejection as the Board may see fit, provided that nothing in this clause shall in any way act to prevent any Volunteer Fire Department in Henderson County from accepting any gift, grant, bequest or donation made to the Department and holding, using and disposing of it in accordance with the terms or conditions of such gift, grant or bequest.

**Sec. 5.** The Fire Commission shall elect each year a Chairman, Vice-Chairman and a Secretary. One member of the Commission shall be designated Communications Supervisor for the Fire Commission. The duties of the Communications Supervisor shall be:

(a) To assume responsibility for the maintenance of all fire communication radio and alarm equipment owned by Henderson County or volunteer fire departments within Henderson County. The Communications Supervisor shall advise the Commission of the sum of money necessary each year to be entered in the proposed budget of the Commission for the maintenance, repair, replacement and expansion of the fire communication radio and alarm equipment in Henderson County. Expenditures for communication equipment are to be made by the majority vote of the Commission.

(b) To insure that all communication equipment used by volunteer fire departments in Henderson County is licensed and operated in accordance with Federal Communications Commission directives and all federal statutes.

(c) To provide for the installation and maintenance of fire alarm telephone lines into any office or area designated by the Fire Commission as the Henderson County Fire Alarm office.

**Sec. 6.** The Fire Commission shall annually submit to the Board of County Commissioners a budget request at the same time as other County offices and agencies. Funds appropriated by the County Board of Commissioners for expenditure by the Fire Commission shall be disbursed by the fiscal disbursing officer of Henderson County upon vouchers issued by the Fire Commission and within the budget appropriations made. Funds received by the Fire Commission from sources other than budget appropriations shall be deposited by the County to the credit of and for the use of the Fire Commission and disbursed as budget funds are disbursed, except that funds received by gift, grant or bequest shall be disposed of in accordance with the terms of such gift, grant or bequest. The Fire Commission shall have no authority to incur any obligation binding Henderson County except to the extent of funds available to

them within the fiscal year as shown by the books of the Henderson County accountant.

**Sec. 7.** After July 1, 1974, no fire protection tax funds collected by Henderson County within any special Fire Protection District shall be paid to any volunteer fire department unless said department has entered into a contract with Henderson County.

**Sec. 8.** Appeals from any action or decision of the Fire Commission may be made to the Board of County Commissioners of Henderson County.

**Sec. 9.** Any and all meetings of the Henderson County Fire Commission shall be open to the public, and interested persons may be heard by request. Meetings may be held in any fire department building in Henderson County or in such other place as may be designated by the Commission.

**Sec. 10.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

S. B. 809                      **CHAPTER 948**

AN ACT TO REQUIRE EVERY PAWNBROKER IN CUMBERLAND COUNTY TO MAINTAIN A PERMANENT RECORD OF ALL PURCHASES AND SALES MADE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 91-4 is amended by adding thereto a separate paragraph to read:

“Every pawnbroker shall keep a book in which shall be legibly written, at the time of any sale or purchase, an account and description of the goods, articles or things sold or purchased by him or his agent or employee, the amount of the sales price, and, as to any purchase, the name and address of the person from whom the purchase is made. Such book shall be a permanent record to be kept at all times on the premises of the place of business of the pawnbroker and shall be made available, during regular business hours, to any police officer who requests to inspect said book.”

**Sec. 2.** This act shall apply only to Cumberland County.

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

S. B. 1047                      **CHAPTER 949**

AN ACT TO REPEAL CHAPTER 482 OF THE 1973 SESSION LAWS PROHIBITING THE RUNNING AND CHASING OF FOX WITH DOGS BETWEEN JANUARY 1 AND SEPTEMBER 1 IN CARTERET COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 482 of the 1973 Session Laws is hereby repealed in its entirety.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

S. B. 1048      CHAPTER 950

AN ACT TO PROVIDE FOR THE SALARIES AND TRAVEL EXPENSES OF THE MEMBERS OF THE BOARDS OF COUNTY COMMISSIONERS, EDUCATION, AND SOCIAL SERVICES OF COLUMBUS COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The members of the Boards of County Commissioners, Education, and Social Services of Columbus County shall receive as compensation for their services the sum of thirty-five dollars (\$35.00) for each day during which they are engaged in official business of the county.

**Sec. 2.** The members of the Boards of County Commissioners, Education, and Social Services of Columbus County shall receive travel expense as provided in G.S. 138-5 for attendance at official meetings and conferences.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

H. B. 1068      CHAPTER 951

AN ACT TO AMEND ARTICLE 12 OF CHAPTER 130 TO PROVIDE FOR THE DISSOLUTION OF CERTAIN SANITARY DISTRICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 12, Chapter 130 is hereby amended by adding a new section to read as follows:

“§ 130-156.4. *Dissolution of sanitary districts; referendum.*—In counties having a population in excess of 275,000, the Board of County Commissioners may dissolve a sanitary district by first requiring a referendum in which the voters of said county shall favor said dissolution and assumption by the county of any outstanding indebtedness of the district. The Board of County Commissioners may further dissolve any sanitary district which has no outstanding indebtedness when the members of such district shall vote in favor of dissolution.

Provided however, before the dissolution of any district shall be approved, a plan for continued operation and provision of all services and functions then being performed or rendered by the district shall be adopted and approved by the Board of County Commissioners.

Provided further, no plan shall be adopted unless at the time of its adoption any water system or sanitary sewer system being operated by the district shall be in compliance with all local, State and federal regulations, and if said system is to be serviced by any municipality, the municipality shall first approve the plan.

When all actions relating to dissolution of the sanitary district have been completed, the chairman of the board of county commissioners shall so notify the State Board of Health.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

H. B. 1179

**CHAPTER 952**

AN ACT TO GRANT COUNTY COMMISSIONERS AUTHORITY TO REGULATE THE DISPOSING AND DISCARDING OF TRASH WITHIN COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153-9 is hereby amended by adding a new subsection at the end thereof to read as follows:

“§ 153-9(67). *To provide for the removal and disposal of trash, garbage, etc.*—The Board of County Commissioners of any county is hereby authorized to enact ordinances governing the removal, method or manner of disposal, depositing or dumping of any trash, debris, garbage, litter, discarded cans or receptacles or any waste matter whatsoever within the rural areas of the county and outside and beyond the corporate limits of any municipality of said county. An ordinance adopted pursuant hereto may make it unlawful to place, discard, dispose, leave or dump any trash, debris, garbage, litter, discarded cans or receptacles or any waste matter whatsoever upon a street or highway located within that county or upon property owned or operated by the county unless such trash, debris, garbage, litter, discarded cans or receptacles or any waste matter is placed in a designated location or container for removal by a specific garbage or trash service collector.

Boards of County Commissioners may also provide by ordinance enacted pursuant to this section, that the placing, discarding, disposing, leaving or dumping of the articles forbidden by this section shall, for each day or portion thereof the articles or matter are left, constitute a separate offense, and that a person in violation of the ordinance may be punished by a fine not exceeding fifty dollars (\$50.00) or imprisoned not exceeding 30 days, or both, for each offense.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

H. B. 1182

**CHAPTER 953**

AN ACT TO REGULATE THE PLACING OF TRASH, REFUSE AND GARBAGE WITHIN MUNICIPAL LIMITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 15 of Chapter 160A of the North Carolina General Statutes is amended by adding thereto a new section to be designated as G.S. 160A-303.1 and to read as follows:

“§ 160A-303.1. *Regulation of the placing of trash, refuse and garbage within municipal limits.*—The governing body of any municipality is hereby authorized to enact an ordinance prohibiting the placing, discarding, disposing or leaving of any trash, refuse or garbage upon a street or highway located within that municipality or upon property owned or operated by the municipality unless such garbage, refuse or trash is placed in a designated location or container for removal by a specific garbage or trash service collector. Any ordinance adopted pursuant hereto may prohibit the placing, discarding, disposing or leaving of any trash, refuse or garbage upon private property located within the municipality without the consent of the owner, occupant, or lessee

thereof and may provide that the placing, discarding, disposing or leaving of the articles forbidden by this section shall, for each day or portion thereof the articles or matter are left, constitute a separate offense.

The governing body of a municipality, in any ordinance adopted pursuant hereto, may provide that a person who violates the ordinance may be punished by a fine not exceeding fifty dollars (\$50.00) or imprisoned not exceeding 30 days, or both, for each offense."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1351

## CHAPTER 954

### AN ACT TO INCORPORATE THE TOWN OF EAST ARCADIA.

*The General Assembly of North Carolina enacts:*

**Section 1.** The inhabitants and the area described in Section 2 of this Charter shall be and is hereby constituted a body politic and corporate under the name of the Town of East Arcadia, and shall be vested with all the property which the Town may acquire, and shall be vested with all the powers, authority, functions, rights, privileges and immunities conferred upon municipalities by the Constitution and general laws of the State.

**Sec. 2.** The corporate boundaries of the Town of East Arcadia shall be as follows until altered in accordance with law:

BEGINNING at a point on East Arcadia Road, said road being Public Road Number 1741, at a point where the road crosses Bladen and Columbus County line and runs with Road Number 1741 to Public Road Number 1743; thence with Road Number 1743 to a point where Horse Pen Branch crosses said road; thence with Horse Pen Branch in a northeasterly direction to Hwy. #87; thence with Hwy. #87 to Columbus and Bladen County line; thence with Columbus and Bladen County line to East Arcadia Road Number 1741, being point of beginning.

**Sec. 3.** The government and general management of the Town shall be vested in the Town Council. The mayor shall have the powers and duties conferred upon mayors by law.

**Sec. 4.** The mayor shall be elected for a term of four years. The Town Council shall be composed of five members who shall be elected for staggered terms of four years.

**Sec. 5.** The regular municipal elections shall be nonpartisan and decided by simple plurality. No primary election shall be held. Except as otherwise provided herein, the elections shall be held and conducted in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. All municipal elections shall be held and conducted by the Bladen County Board of Elections.

**Sec. 6.** The municipal elections for town officials shall be held on Tuesday after the first Monday in November, beginning in 1975. The candidate for mayor receiving the highest number of votes shall be elected for a term of four years.

The three candidates for membership on the Town Council who receive the highest number of votes shall be elected for a term of four years. The two candidates for membership on the Town Council who receive the next highest

number of votes shall be elected for a term of two years. Thereafter as the terms expire, the successors shall be elected for terms of four years. All qualified voters residing in the Town of East Arcadia shall be eligible to office and to vote in the municipal elections.

**Sec. 7.** Vacancies in the office of mayor and on the Town Council shall be filled as provided by general law.

**Sec. 8.** The Board of Elections of Bladen County shall conduct a special election in the Town of East Arcadia on Tuesday, April 16, 1974, for the purpose of electing the Mayor and members of the Town Council to serve until their successors are elected and qualified in the regular municipal election to be held in 1975 pursuant to this Charter. The special election shall be held under the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes, except that notices of candidacy shall be filed not earlier than 5:00 p.m. on Friday, March 1, 1974, and not later than 5:00 p.m. on Friday, March 22, 1974. The cost of conducting this special election shall be paid by the Bladen County Board of Elections, but shall be refunded to the Board of Elections by the Town of East Arcadia as soon as funds become available to the Town.

**Sec. 9.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1429

## CHAPTER 955

### AN ACT TO AMEND G.S. 143-166.2 RELATING TO LAW ENFORCEMENT OFFICERS, FIREMEN AND RESCUE SQUAD WORKERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-166.2(3) as the same appears in Volume 3C of the 1973 Interim Supplement to the General Statutes of North Carolina is hereby rewritten to read as follows:

“(3) The term ‘killed in the line of duty’ shall apply to any law enforcement officer, fireman or rescue squad worker who is killed or dies as a result of bodily injuries sustained or of extreme exercise or extreme activity experienced in the course and scope of his official duties while in the discharge of his official duty or duties.”

**Sec. 2.** G.S. 143-166.2(4) as the same appears in Volume 3C of the 1973 Interim Supplement to the General Statutes of North Carolina is hereby amended by adding at the end of that subdivision the following words and punctuation:

“, which is eligible for membership in the North Carolina Association of Rescue Squads, Inc. and so certified by Secretary of said Association. Each member shall be required to attend a minimum of 36 hours of training and meetings in each calendar year. Each Rescue Squad must file a roster certified to by the Secretary of those members meeting the above requirements with the State Auditor on or about January 1 of each year.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1491

## CHAPTER 956

AN ACT ESTABLISHING GUIDELINES FOR ESTABLISHING CHARGES  
AND SETTING RATES OF WATER AND SEWER UTILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Paragraph (a) of Section 133 of Chapter 62 of the General Statutes of North Carolina is hereby amended by deleting the words "other than motor carriers" and by adding in lieu thereof the words "other than motor carriers and certain water and sewer utilities."

**Sec. 2.** There is hereby added to Chapter 62 of the General Statutes of North Carolina a new section G.S. 62-133.1 which shall read as follows:

"§ 62-133.1. *Small water and sewer utility rates.*—(a) In fixing the rates for any water or sewer utility, the Commission may fix such rates on the ratio of the operating expenses to the operating revenues, such ratio to be determined by the Commission, unless the utility requests that such rates be fixed under G.S. 62-133(b). Nothing in this paragraph shall be held to extinguish any remedy or right not inconsistent herewith. This paragraph shall be in addition to other provisions of this Chapter which relate to public utilities generally, except that in cases of conflict between such other provisions, this section shall prevail for water and sewer utilities.

(b) A water or sewer utility may enter into uniform contracts with non-users of its utility service within a specific subdivision or development for the payment by such non-users to the utility of a fee or charge for placing or maintaining lines or other facilities or otherwise making and keeping such utility's service available to such non-users; or such a utility may, by contract of assignment, receive the benefits and assume the obligations of uniform contracts entered into between the developers of subdivisions and the purchasers of lots in such subdivisions whereby such developer has contracted to make utility service available to lots in such subdivision and purchasers of such lots have contracted to pay a fee or charge for the availability of such utility service; provided, however, that the maximum non-user rate shall be as established by contract, except that the contractual charge to non-users of the utility service can never exceed the lawfully established minimum rate to user customers of the utility service."

**Sec. 3.** Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of law are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1530

## CHAPTER 957

AN ACT TO AMEND CHAPTER 387 OF THE 1973 SESSION LAWS, WHICH AMENDED G.S. 139-39, TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS TO ESTABLISH WATERSHED IMPROVEMENT DISTRICTS IN AREAS OF THE COUNTIES OF CAMDEN, PASQUOTANK AND PERQUIMANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 387 of the 1973 Session Laws is amended by deleting on lines one and two of Section 1 the words "of Camden County"; and by deleting on line 11 of Section 1 the words "of Camden County". Further amend on line one of Section 4 by deleting the words "Camden County" and inserting in lieu thereof the words "the counties of Camden, Pasquotank and Perquimans."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1716

## CHAPTER 958

AN ACT TO AMEND CHAPTER VI, ARTICLE 1, SUBCHAPTER B, OF THE CHARTER OF THE CITY OF REIDSVILLE AS SET FORTH IN CHAPTER 831, SESSION LAWS OF 1961.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter VI, Article 1, Subchapter B, of the Charter of the City of Reidsville, as set forth in Chapter 831, Session Laws of 1961, is hereby amended by adding a new subsection (c) thereto to read as follows:

"(c) Alternative condemnation procedures. In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful, the City may in its discretion use the procedures of Article 2 of Chapter 40 of the General Statutes, or Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law, charter, or local act applicable to the City. As contained in the General Statutes above mentioned, wherever the words 'Board of Transportation' appear they shall be deemed to include 'city' or 'council' and wherever the words 'chairman', or 'Chairman of the Board of Transportation' appear they shall be deemed to include 'city clerk'."

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## H. B. 1717

## CHAPTER 959

AN ACT TO AMEND CHAPTER 522 OF THE 1971 SESSION LAWS  
RELATING TO THE WILSON CITY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 522, Session Laws of 1971, is amended by striking from Section 2 the following sentence beginning on line 7 thereof:

“In case of a vacancy caused by death, resignation, failure to qualify or for any other cause, the said vacancy shall be filled by appointment of the remaining members of said board until the next regular nonpartisan election of the members of said board of education.”

and by inserting in lieu thereof the following:

“In case of any vacancy caused by death, resignation, failure to qualify or for any other cause, the said vacancy shall be filled by appointment of the remaining members of said board and the person so appointed to fill said vacancy shall serve for the remainder of the unexpired term of his predecessor.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of March, 1974.

## S. B. 993

## CHAPTER 960

AN ACT TO AMEND CHAPTER 100 OF THE SESSION LAWS OF 1955,  
RELATING TO THE LUMBERTON FIREMAN'S PENSION FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 100 of the Session Laws of 1955 is hereby amended by striking out all of the section following the word “to” in line 4 and inserting in lieu thereof the words, “two dollars and fifty cents (\$2.50) for each full year of service with the Fire Department.”

**Sec. 2.** Section 5 of Chapter 100 of the Session Laws of 1955 is hereby amended by rewriting the section in its entirety to read as follows:

“Sec. 5. The Board of Trustees of the Supplementary Pension Fund shall select a bank or trust company authorized to provide trust services in North Carolina to serve as Trustee of said fund. The Trustee shall administer the said fund and to the extent that monies are available for such purpose shall pay the beneficiaries thereof on the first day of each and every month any monies that such beneficiaries may be entitled to under the provisions of this act.”

**Sec. 3.** Section 6 of Chapter 100 of the Session Laws is hereby amended by rewriting the section in its entirety to read as follows:

“Sec. 6. No bond will be required of any bank or trust company serving as Trustee.”

**Sec. 4.** Section 7 of Chapter 100 of the Session Laws of 1955 is hereby amended by rewriting the section in its entirety to read as follows:

“Sec. 7. The said Trustee of said Supplementary Pension Fund is authorized and directed to invest all monies coming into its possession belonging to said fund except so much as it determines is reasonably necessary for the prompt payment of claims and expenses, in such securities as it shall select, provided, however, that such securities shall be of the same quality as may be allowed in the investment of trusts subject to court supervision in the State of North Carolina.”

**Sec. 5.** Section 8 of Chapter 100 of the Session Laws of 1955 is hereby amended by striking out all of the section following the words "Supplementary Pension Fund" and inserting in lieu thereof the words, "and transfer the same to the Trustee to be added to the other assets of the Supplementary Pension Fund."

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## S. B. 1092

## CHAPTER 961

## AN ACT TO ESTABLISH THE COMMISSION FOR HUMAN SKILLS AND RESOURCE DEVELOPMENT.

Whereas, North Carolina, like many other states is experiencing a crisis of family and community, which are the basic social units of our nation; and

Whereas, this crisis is reflected in the dissolution of marital relationships, the alienation of child from parent, the increase in juvenile runaways and juvenile delinquency, the incidence of alcoholism and drug abuse, and in the increase of emotional problems in general; and

Whereas, such problems are not being met in many communities due to the lack of trained helpers; and

Whereas, there exist in many communities of our State persons in helping professions who could be trained as resource persons to counsel with others about their problems; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Assembly hereby declares that it shall be the policy of this State insofar as possible to train and utilize qualified individuals residing in local communities to make available adequate counseling and referral services for all North Carolinians.

**Sec. 2.** There is hereby created within the Department of Human Resources the Commission for Human Skills and Resource Development (hereinafter called the "Commission") which shall provide the mechanism in each county in this State to develop counseling abilities among community resource personnel in helping professions and other appropriate persons. The purpose of this Commission shall be to develop programs to sensitize persons and groups working with individuals and families, to increase competence in counseling skills of selected persons, and to consider ways of dealing with factors which adversely affect the quality of life in North Carolina.

**Sec. 3.** The Commission shall consist of 20 members. Fourteen members shall be appointed by the Governor, and six members shall be appointed from the General Assembly, three by the Speaker of the House of Representatives and three by the President of the Senate. Of the 14 members to be appointed by the Governor for the first Commission, four shall be appointed for a term of one year, five for a term of three years and five for a term of five years. As the terms of these Commissioners expire, the Governor shall appoint their successors for terms of five years. The six members appointed from the General Assembly shall serve for a term of two years. Any vacancy arising for any cause other than the expiration of the term shall be filled by the original appointing authority for the unexpired term. The Governor shall designate the chairman from among the membership of the Commission.

**Sec. 4.** A chief administrator and executive officer, a planning officer, a secretary, and other appropriate staff shall be appointed according to the Executive Organization Act of 1973. No person employed by the Commission shall be a member thereof.

**Sec. 5.** The Commission shall make all rules and regulations necessary to its purpose as stated in Section 1 and is hereby authorized to enter into any agreement or contract, to purchase or lease property both real and personal, to adopt and accept grants and gifts of whatsoever nature, and to do all other things necessary to carry out the interest and purpose of such Commission.

**Sec. 6.** The Commission is hereby authorized to receive grants-in-aid from the federal government for carrying out the provisions of this act.

**Sec. 7.** The members of the Commission shall receive no compensation for their services; but their travel and per diem expenses shall be paid as authorized for members of State Commissions under G.S. 138-5.

**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 973

## CHAPTER 962

AN ACT TO AMEND SECTION 105-275 OF THE GENERAL STATUTES TO EXEMPT FROM TAXATION REAL PROPERTY WHICH IS OWNED BY A CHARITABLE ORGANIZATION EXCLUSIVELY FOR A PUBLIC PARK.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (7)a of G.S. 105-275 as codified in pamphlet No. 7 of the Michie Company's 1973 Advance Legislative Service (as same will appear in the 1973 Cumulative Supplement to Volume 2D of the North Carolina General Statutes) is hereby rewritten to read as follows:

"(7) Real and personal property that is:

- a. Owned either by a nonprofit corporation formed under the provisions of Chapter 55A of the General Statutes or by a bona fide charitable organization, and either operated by such owning organization or leased to another such nonprofit corporation or charitable organization, and
- b. Appropriated exclusively for public parks and drives."

**Sec. 2.** The provisions of this act shall be applicable to all years beginning with the year 1974.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1410

## CHAPTER 963

AN ACT TO AUTHORIZE COUNTIES TO LEVY TAXES ON PROPERTY FOR ARMORY CONSTRUCTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-149 (c) is hereby amended by adding a new subparagraph (37) at the end thereof, to read as follows:

“(37) Armories. To supplement available State or federal funds to be used for the construction, (including the acquisition of land), enlargement or repair of armory facilities for the North Carolina National Guard.”

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1435

## CHAPTER 964

AN ACT TO EXEMPT FARM CHEMICAL APPLICATORS OR BULK FERTILIZER SPREADERS FROM THE REGISTRATION REQUIREMENTS OF CHAPTER 20.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-51(6) as it appears in the Michie Company's 1973 Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by adding after the word “cucumbers,” in the first sentence the words “fertilizers or chemicals purchased or owned by such farmer or tenant for personal use in implementing husbandry”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1439

## CHAPTER 965

AN ACT TO AMEND G.S. 66-58 TO MAKE THE DEPARTMENT OF ADMINISTRATION RESPONSIBLE FOR SEEING THAT NORTH CAROLINA FLAGS ARE AVAILABLE FOR PURCHASE BY EVERY CITIZEN OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 66-58 as the same appears in Volume 2C of the Cumulative Supplement to the General Statutes of North Carolina is amended by adding at the end of subsection (c) a subdivision numbered “(12)” to read as follows:

“(12) The sale of North Carolina flags by or through the auspices of the Department of Administration, to the citizens of North Carolina.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1513

## CHAPTER 966

AN ACT CREATING THE "NORTH CAROLINA NATIONAL GUARD MERITORIOUS SERVICE MEDAL" AND THE "NORTH CAROLINA NATIONAL GUARD STATE DUTY AWARD" TO HONOR THOSE MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD WHO HAVE DISTINGUISHED THEMSELVES AND THIS STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of Chapter 127 of the North Carolina General Statutes is hereby amended by the addition of a new section G.S. 127-37.2 to read as follows:

"§ 127-37.2 *North Carolina National Guard Meritorious Service Medal.*—There is hereby created the 'North Carolina National Guard Meritorious Service Medal' which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Governor or his designated representative is authorized to award this medal upon the recommendation of the Adjutant General and a board of officers appointed by the Adjutant General. Any member, or former member discharged under honorable conditions, of the North Carolina National Guard who distinguishes himself on or after July 1, 1974, by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard is eligible for this award. The required heroism, achievement, or service, while of a lesser degree than that required for award of the North Carolina Distinguished Service Medal, must nevertheless have been accomplished with distinction."

**Sec. 2.** Article 3 of Chapter 127 of the North Carolina General Statutes is hereby amended by the addition of a new section G.S. 127-37.3 to read as follows:

"§ 127-37.3. *North Carolina National Guard State Duty Award.*—There is hereby created the 'North Carolina National Guard State Active Duty Award' which shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a design approved by the Governor or his designated representative. The Adjutant General of North Carolina is authorized to award this ribbon to members of the North Carolina National Guard who satisfactorily serve a tour of State active duty on or after July 1, 1974, by order of the Governor and said tour of State active duty having been designated by the Adjutant General of North Carolina as worthy of this award. Said tours of State active duty designated for this award are to be of such nature as to be a distinct and notable service to a community or the State."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1612

## CHAPTER 967

AN ACT TO AMEND ARTICLE 7A OF CHAPTER 54 OF THE GENERAL STATUTES OF NORTH CAROLINA CONCERNING THE REGULATION OF MUTUAL DEPOSIT GUARANTY ASSOCIATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-44.1 as the same appears in the 1971 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina is hereby amended by deleting subparagraph (1) in its entirety and inserting in lieu thereof the following words: "Administrator" means the Administrator of the Savings and Loan Division of the State."

**Sec. 2.** Article 7A of Chapter 54, the same being G.S. 54-44.1 through G.S. 54-44.13 as the same appears in the 1971 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is hereby amended by deleting the word "Commissioner" in each and every instance that the same appears in Article 7A of Chapter 54 and inserting in lieu thereof the word "Administrator".

**Sec. 3.** This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1664

## CHAPTER 968

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE RELATIVE TO EMPLOYMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Sec. 4.41(1), Subchapter C of Chapter IV of Chapter 713 of the Session Laws of 1965, as amended, is hereby rewritten as follows: "Employment shall be based on merit without regard to race, creed, color, sex, political affiliation, age or physical defect or impairment of the applicant unless the defect or impairment to some degree shall prevent the applicant from performing the duties required by the employment sought.

Physical defect or impairment shall be defined to mean any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy."

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1781

**CHAPTER 969**

AN ACT TO AUTHORIZE THE TOWN OF BOILING SPRING LAKES TO HOLD AN ELECTION FOR THE SALE OF BEER FOR OFF PREMISE CONSUMPTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Town of Boiling Spring Lakes is hereby authorized to hold an election to determine whether malt beverages may be sold in the Town for "off premise" consumption only.

The election shall be called, held and conducted in accordance with the provisions of G.S. 18A-52, but the only question submitted on the ballot shall be for "off premise" sale of malt beverages.

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## H. B. 1368

**CHAPTER 970**

AN ACT TO REPEAL CERTAIN SUPERSEDED DEATH BENEFIT ACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 118-A of the General Statutes of North Carolina, the same being Chapter 914 of the Session Laws of 1971, is hereby repealed.

**Sec. 2.** Chapter 118-B of the General Statutes of North Carolina, the same being Chapter 1131 of the Session Laws of 1971, is hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of March, 1974.

## S. B. 1008

**CHAPTER 971**

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF JACKSON IN CONNECTION WITH THE AUTHORIZATION OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) WATER BONDS AND TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) SANITARY SEWER BONDS OF SAID COUNTY AND THE CALLING AND HOLDING OF AN ELECTION THEREON.

*The General Assembly of North Carolina enacts:*

**Section 1.** All proceedings heretofore taken by the Board of Commissioners of the County of Jackson in connection with the authorization of two hundred fifty thousand dollars (\$250,000) Water Bonds and two hundred fifty thousand dollars (\$250,000) Sanitary Sewer Bonds of said County and the calling and holding of an election upon the question of approving or disapproving the issuance of said bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-56.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1974.

S. B. 1191

### CHAPTER 972

AN ACT AUTHORIZING THE ESTABLISHMENT OF A TOWN LIQUOR CONTROL STORE IN THE TOWN OF LIBERTY, RANDOLPH COUNTY, AND PROVIDING FOR THE ALLOCATION OF THE NET PROCEEDS FROM THE OPERATION OF SUCH STORE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing body of the Town of Liberty may on its own motion, and shall if requested by a petition signed by at least fifteen percent (15%) of the registered voters of Liberty, order an election to be held on the question of whether or not a town liquor control store may be operated in the Town of Liberty; and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said town; but if a majority of the votes cast in said election shall be against the operation of a town liquor control store, no such store shall be set up or operated in said town under provisions of this act. In the event the governing body of the Town of Liberty on its own motion orders a special election herein provided for, said election shall be held on such date as determined by said governing body. Provided, that the special election shall not be held on or within 60 days of any biennial election for county officers.

**Sec. 2.** In calling for such special liquor election, the said governing body shall give at least 30 days' public notice of the same prior to the opening of the registration books, and said registration books shall remain open for eight days before such special liquor election. A new registration of voters for such special liquor election shall not be necessary and all qualified voters who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Town Liquor Control Store", "Against Town Liquor Control Store". Those favoring setting up and operating a liquor store in the Town of Liberty shall mark in the voting square to the left of the words "For Town Liquor Control Store", printed on the ballot; and those opposed to a town liquor control store shall mark in the voting space to the left of the words "Against Town Liquor Control Store". Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to municipal elections in the Town of Liberty.

**Sec. 3.** If, after the first election, but no sooner than three years, upon a petition signed by at least fifteen percent (15%) of the registered and qualified voters of the town, the governing body shall call an election and at such election a majority of the votes shall be "Against Town Liquor Control Store", the town liquor control board shall within three months from the canvassing of such votes and the declaration of the result thereof, close said store and shall thereafter cease to operate the same, and within said three months the town control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the town treasurer. Thereafter, all public, public-local and private laws applicable to the sale of intoxicating beverages

within said Town of Liberty in force and effect prior to the authorization to operate a town liquor store shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For Town Liquor Control Store". No election shall be called and held in the Town of Liberty under the provisions of this section within three years from the holding of the last election thereunder. It shall be the duty of the governing body of the Town of Liberty to order the special liquor election herein authorized in this section within 60 days after a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of any biennial county or Town of Liberty general election or primary election, or within 30 days of any such election.

**Sec. 4.** If the operation of a town liquor control store is authorized under the provisions of this act, the mayor and governing body of the Town of Liberty shall immediately appoint a town Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board shall be known and designated as "The Town of Liberty Board of Alcoholic Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the first terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board, shall be named or filled by the governing board of the town. The Board of Alcoholic Control shall report monthly to the town board the status and financial condition of the Alcoholic Control Board and the books of the said Board of Alcoholic Control shall be available for inspection and examination by the members of the town board at any time.

**Sec. 5.** The said Town of Liberty Board of Alcoholic Control shall have all of the powers and duties imposed by Section 18A-17 of the General Statutes on County Board of Alcoholic Control, except as otherwise provided herein, and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in Chapter 18A of the General Statutes. The said Town of Liberty Board of Alcoholic Control and the operation of any town liquor store authorized under the provisions of this act shall be subject to and in accordance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Whenever the word "County" Board of Alcoholic Control appears in said Article, it shall include the Town of Liberty Board of Alcoholic Control.

**Sec. 6.** The net profits, as determined by quarterly audit, shall be distributed and used as follows:

1. The first two hundred thousand dollars (\$200,000) of net profit or so much of it as is necessary to build a medical clinic in the Town of Liberty and thereafter five percent (5%) of the net profit or so much of it as is necessary to maintain this clinic. Provided, that before such distributions are made, the town Alcoholic Control Board shall comply with the provisions of G.S. 18A-17(14) requiring the expenditure of not less than seven percent (7%) of its total profits for education on the excessive use of alcoholic beverages and for the

rehabilitation of alcoholics. Provided further, that this subsection shall be subject to the provisions of subsection 2 of this section.

2. In addition to the expenditure of seven percent (7%) of total profits, as required by G.S. 18A-17(14), for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics, the town Alcoholic Control Board may, in its discretion, spend an additional three percent (3%) of total profits for such purposes. Whenever a person becomes an inebriate from the use of alcoholic beverages and has been committed by the Clerk of Court of Randolph County, as provided in G.S. 35-2, and such person is indigent so that expenses of his care and cure shall constitute a valid charge against the county, as provided in G.S. 35-2, the town Alcoholic Control Board shall pay to the county such charges; provided, that the town Alcoholic Control Board shall not be required to pay any such charges except where it has agreed with the Clerk of Superior Court to pay such charges prior to the person's commitment. The town Alcoholic Control Board is authorized to participate in and to make contributions to public and private organizations which have rehabilitation programs for alcoholics, when the organization and its programs have been approved by the board. Nothing herein shall be construed as limiting the Alcoholic Control Board's discretion in establishing its educational and rehabilitation program and expenditures therefor within the ten percent (10%) net profits herein allocated.

3. Eighty-five percent (85%) of the net profits shall be allocated to the general fund of the Town of Liberty. The governing body of the town is hereby authorized to appropriate such funds for any proper governmental purpose, including that set out in subsection 1 of Section 6, in amounts in excess of the five percent (5%) set out in that section, and the costs of any additional law enforcement officers and facilities necessitated by the sale of liquor within the Town of Liberty.

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of March, 1974.

H. B. 1665

## CHAPTER 973

AN ACT PROHIBITING THE SALE OR OFFER OF SALE OF IMMATURE APPLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 17 of Chapter 106 of the General Statutes as the same appears in Volume 3A of the 1973 Cumulative Supplement to the General Statutes is amended by adding thereto a new section to be numbered G.S. 106-189.2 and to read as follows:

“§ 106-189.2. *Sale of immature apples.*—(a) All apples sold, offered for sale, or shipped into this State shall meet the requirements for maturity of the United States standards for grades of apples.

(b) Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00). Each day on which apples are sold or offered for sale in violation of the provisions of this section shall constitute a separate violation.”

**Sec. 2.** This act shall become effective upon ratification.



(4) District 4 shall consist of Canetuck, Caswell and Columbia Townships.

(5) District 5 shall consist of Union Township.

**Sec. 2.** Beginning in 1976, members of the Board of Education shall be elected on a nonpartisan basis at the time of the primary election. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the County shall be entitled to vote.

**Sec. 3.** One member shall be elected from each District and the candidates must be residents of the District they seek to represent. The ballot shall show the District for which the candidate is seeking election.

**Sec. 4.** The qualified voters of the entire county shall vote for the candidates from all five districts. The candidate from each district receiving the highest number of votes shall be elected.

**Sec. 5.** Members of the Board of Education representing Districts 3 and 5 shall be elected at the time of the primary elections in 1976 for a term of four years. Members of the Board of Education representing Districts 1, 2 and 4 shall be elected at the time of the primary election in 1978 for a term of four years. Thereafter, as their terms expire, all members shall be elected for terms of four years.

**Sec. 6.** Except as herein provided, the provisions of North Carolina General Statutes Section 115-19 shall govern the election of the Board of Education of Pender County.

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

**H. B. 1593                                      CHAPTER 977**

**AN ACT PROVIDING FOR THE ELECTION OF MEMBERS OF THE  
CHAPEL HILL - CARRBORO CITY BOARD OF EDUCATION, AND  
FIXING THEIR TERMS OF OFFICE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 161 of the 1973 Session Laws of 1973 is hereby repealed.

**Sec. 2.** Section 2 of Chapter 254 of the 1955 Session Laws as amended by Section 1 of Chapter 100 of the 1959 Session Laws is hereby rewritten as follows:

“Sec. 2. The Chapel Hill-Carrboro City Board of Education shall henceforth consist of seven members elected for four-year terms; provided this act shall not affect the terms of presently elected members. The elections shall be held at the same time as provided by general law for the municipal elections for the Towns of Chapel Hill and Carrboro. At the election in 1975, two members shall be elected for four-year terms. At the election in 1977 and every second biennial election thereafter, three members shall be elected for four-year terms. At the election in 1979 and every second biennial election thereafter, four members shall be elected for four-year terms. Members shall take office on the first

Monday in December following the election of their successors, or until their successors are elected and qualified. The elections shall be held and conducted by the Orange County Board of Elections under the same provisions of Articles 23 and 24 of Chapter 163 of the General Statutes which are applicable to the election of municipal officers in Chapel Hill and Carrboro.”

**Sec. 3.** Section 5 of Chapter 254 of the Session Laws of 1955 is hereby rewritten as follows:

“Sec. 5. Vacancies occurring on the Chapel Hill-Carrboro City Board of Education by reason of death, resignation, or otherwise than by the expiration of the term of office, shall be filled by appointment of the remaining members of said board. If the member being replaced was in the last 26 months of the term, the appointment to fill the vacancy shall be for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy shall extend to the first Monday in December next following the first election for members of the board held after the day the vacancy occurs.

If at any election for members of the Chapel Hill-Carrboro City Board of Education vacancies have occurred and there are both regular four-year terms and two-year unexpired terms to be filled by election, the candidates elected with the greatest numbers of votes shall be elected for regular four-year terms, and the candidates elected with the lowest numbers of votes shall be elected to fill the remainder of the unexpired terms.”

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

## H. B. 1647

## CHAPTER 978

### AN ACT RELATING TO RETIREMENT BENEFITS FOR EMPLOYEES OF THE CITY OF LINCOLNTON IN LINCOLN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 199 of the Session Laws of 1967, is hereby repealed.

**Sec. 2.** Employees of the City of Lincolnton, retired employees of the City of Lincolnton and former employees of the City of Lincolnton who contributed to the Retirement Benefit Fund established for the City of Lincolnton by Chapter 199 of the Session Laws of 1967, upon passage of this act, shall be refunded such monies as he or she has paid into the fund without interest, during the year 1974-1975.

**Sec. 3.** The Board of Aldermen of the City of Lincolnton is hereby authorized to appropriate, from non-tax revenues of the City of Lincolnton, funds for retirement benefits to be granted any qualified employee, former employee or retired employee of the City of Lincolnton. All such benefits shall be in addition to any retirement benefits the employee may receive from the North Carolina Local Government Employee's Retirement System or any other retirement benefits he may receive from any other source.

**Sec. 4.** The Board of Aldermen of the City of Lincolnton shall create a separate fund, to be known as the Retirement Fund, and to be disbursed by voucher drawn by the City Treasurer of Lincolnton and countersigned by the Mayor. Said retirement funds are to be accumulated out of non-tax monies of the City of Lincolnton.

**Sec. 5.** Should the retirement fund, at any time, be insufficient to make the monthly payment the City shall place in said retirement fund the amount sufficient to make the monthly payments, the funds to be paid out of non-tax monies.

**Sec. 6.** Employees of the City of Lincolnton, whether paid wages or salary, including the Clerk to the Board of Alderman, City Treasurer, City Attorney, and any and all other employees of the City of Lincolnton, may voluntarily file notice with the Clerk to the Board of Alderman to be entered on the roll of pension.

**Sec. 7.** Employees at age 62 or over and with 25 years of accumulated employment with the City of Lincolnton will receive the retirement pay of fifty dollars (\$50.00) per month.

**Sec. 8.** An employee who has an accumulated employment with the City of Lincolnton for ten years or more and who becomes disabled or unable to work (while an employee of the City of Lincolnton) shall be entitled to the retirement benefits of fifty dollars (\$50.00) per month.

**Sec. 8.1.** The provisions of G.S. 160A-163 shall not apply to the retirement benefits authorized by this act.

**Sec. 9.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

## H. B. 1702

## CHAPTER 979

### AN ACT TO PROVIDE FOR THE ELECTION OF THE CASWELL COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Caswell County Board of Education shall consist of five members who shall be elected for staggered terms of four years as hereinafter provided. For the purpose of electing members to the Board of Education, the following residential districts are created and one member shall be elected from each district:

District No. 1 to consist of Yanceyville Township

District No. 2 to consist of Milton and Dan River Townships

District No. 3 to consist of Pelham and Locust Hill Townships

District No. 4 to consist of Stoney Creek and Anderson Township

District No. 5 to consist of Hightower and Leasburg Townships.

**Sec. 2.** The election for members of the County Board of Education shall be non-partisan and no party affiliation shall be shown. The election shall be held at the same time of the regular primary to be held in 1974, and thereafter, as the terms of the members expire at the same time of the regular primary. No primary election shall be held. Candidates shall be residents of the district they seek to represent, but shall be elected by the voters of the entire county. A candidate from each district must receive a majority of the number of votes cast to be declared elected. In the event of a failure of a candidate to receive a majority of the number of votes cast, then the receiver of the highest number of votes may be called to a run-off election by the receiver of the second highest number of votes cast as provided in primary elections.

**Sec. 3.** Beginning with the election to be held at the time of the regular county primary in 1974, members shall be elected for Districts No. 2, 3 and 4, to

serve for terms of four years. Thereafter, as their terms expire, their successors shall be elected for terms of four years.

At the election to be held at the time of the county primary in 1976, members shall be elected for Districts No. 1 and 5, and the persons elected shall serve for terms of four years. Thereafter, as their terms expire, their successors shall be elected for terms of four years.

**Sec. 4.** The terms of the incumbent members of the County Board of Education, Herbert L. Seagrove, C. H. Barker, K. J. Loftis, H. L. Oliver and James T. Ashby, shall not be affected by this act.

**Sec. 5.** Members elected under this act shall take office on the first Monday in December following their election. Failure of those persons elected to qualify within 30 days from the first Monday in December following their election shall constitute a vacancy, and the failure of a person appointed to fill a vacancy to qualify within 30 days after the appointment shall constitute a vacancy. A vacancy occurring on the Board of Education for any reason shall be filled by majority vote of the remaining members. In case of a tie vote, the Chairman of the Board of County Commissioners shall vote to break the tie.

**Sec. 6.** Any person who has filed as a candidate for the Board of Education prior to the ratification of this act, shall not be required to refile, but his notice of candidacy shall be deemed to be a non-partisan filing.

**Sec. 7.** Filing deadline for the members of the County Board of Education shall be the same as other local offices. Filing by candidates shall be with the local board of elections.

**Sec. 8.** This act shall become effective upon ratification.

**Sec. 9.** All local acts in conflict with this bill are hereby repealed.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

## H. B. 1705

## CHAPTER 980

AN ACT TO AMEND CHAPTER 713 OF THE 1965 SESSION LAWS, BEING THE CHARTER OF THE CITY OF CHARLOTTE, RELATING TO INSURANCE PREMIUMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter IV, Subchapter C, Section 4.42 of Chapter 713 of the Session Laws of 1965, is hereby amended by deleting the phrase "provided that premiums for dependents coverage shall be paid by the employee".

**Sec. 2.** This act shall apply to the City of Charlotte only.

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

H. B. 1661

**CHAPTER 981**

AN ACT TO PROVIDE FOR THE REMOVAL OF UNAUTHORIZED MOTOR VEHICLES FROM PRIVATE AND MUNICIPAL PARKING LOTS IN THE CITY OF DURHAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-162.2 is hereby amended by inserting after the word "Wilson" at the end of subsection (c) the words "and to the City of Durham".

**Sec. 2.** G.S. 20-162.2 is further amended by adding a new subsection (d) to read as follows:

"(d) The provisions of this section shall also apply to parking spaces leased to persons, firms or corporations in parking lots or garages owned, leased or otherwise operated by the City of Durham."

**Sec. 3.** The provisions of Section 2 of this act shall apply only to the City of Durham.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

H. B. 1662

**CHAPTER 982**

AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM, CHAPTER 142, SECTION 13, PRIVATE LAWS OF 1921, WITH RESPECT TO GIVING NOTICE FOR SPECIAL MEETINGS OF THE DURHAM CITY COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Durham, Chapter 142, Section 13 thereof, Private Laws of 1921, is amended by deleting the entire sentence that begins on line 6 with the words "The Mayor" and substituting in lieu thereof the following:

"The Mayor, any four members of the city council, or the city manager, hereinafter provided for, may call special meetings of the council upon at least six (6) hours notice to each member. Notice may be given to a member by direct telephone communication with such member or by direct personal conversation with such member or by written notice to any member not otherwise notified by serving such written notice personally upon such member or by leaving such written notice at such member's residence or business. Written notice as provided herein may be served by any person or persons designated by the city manager. A special meeting may be held at any time without notice provided that all of the members of the council attend."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1690

## CHAPTER 983

AN ACT TO PROVIDE THAT ALL MUNICIPALITIES IN DARE COUNTY SHALL HAVE THE POWERS OF ANNEXATION CONTAINED IN CHAPTER 160A OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** All municipalities in the County of Dare are hereby authorized to extend their corporate limits by any procedure contained in Part 1, Part 2, or Part 3 of Article 4A of Chapter 160A of the General Statutes.

**Sec. 2.** All local and special acts or charter provisions in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1691

## CHAPTER 984

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE TOWN OF MANTEO OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE TOWN OF MANTEO.

Whereas, Article 4A of Chapter 160A of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the Town of Manteo; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said city and would permit a more orderly growth of the municipal boundaries of said town to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** That the owner or owners of any area, territory or subdivision within the boundaries of Dare County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the Town of Manteo, may, by petition directed to the governing body of the Town, request that the property described in the petition be annexed and made a part of the Town of Manteo as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the Town of Manteo municipal limits wherein is located and situated the Town Hall.

**Sec. 2.** That said petition shall be directed to the governing body of the Town of Manteo and shall contain:

(1) The names of the owners of the real property for which a request to annex is made.

(2) A description of the area to be annexed by metes and bounds.

(3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the governing body of the Town of Manteo shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the governing body shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least ten days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of Dare County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The governing body shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the governing body that:

(1) The public health, safety and welfare of the inhabitants of the Town of Manteo, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The Town of Manteo will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said city are served, the governing body of the Town of Manteo may adopt an ordinance annexing that area described in the petition; provided the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the governing body where a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said Town of Manteo and shall be entitled to the same benefits and privileges of other parts of said Town. The newly annexed area, territory or subdivision shall be subject to city taxes for the fiscal year following the effective date of annexation.

**Sec. 3.** The governing body of the Town of Manteo may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

**Sec. 4.** The governing body, in its discretion, may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits wherein is located the Town Hall, and from time to time the council shall review the expenses related to any noncontiguous area to determine that said expenses are not in excess of taxes and revenues derived therefrom.

**Sec. 5.** Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the Town of Manteo pursuant to the extension of the boundaries of said Town pursuant to Article 4A, Chapter 160A of the General Statutes of North Carolina.

**Sec. 6.** Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the Town of Manteo and further shall not be considered within the municipal boundaries for the purpose of defining an area as contiguous to the city limits within the provisions of Article

4A of Chapter 160A of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 4A of Chapter 160A of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the Town of Manteo wherein is located the Town Hall. Any area, territory or subdivision annexed pursuant hereto may be included at only forty percent (40%) of the normal rate for the purposes of population density or character of any larger area, territory, or subdivision to be annexed at any time in the future pursuant to the provisions of Article 4A of Chapter 160A of the General Statutes of North Carolina.

**Sec. 7.** The total area of all noncontiguous portions of the town annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the Town of Manteo wherein is located the Town Hall.

**Sec. 8.** This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the Town of Manteo.

**Sec. 9.** If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

**Sec. 10.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1709

## CHAPTER 985

### AN ACT TO DEFINE COMMUNITY ACTION PROGRAMS AND MANPOWER DEVELOPMENT PROGRAMS FOR PURPOSES OF G.S. 160A-492 APPLICABLE TO THE CITY OF DURHAM.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-492 is hereby amended by adding a new paragraph to follow the second paragraph thereof, said new paragraph to read as follows:

“For the purposes of this section, a ‘community action program’ is a community based and operated program that includes or is designed to include a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community; such a program includes the planning of responses to causes of poverty, coordinating existing public and private responses, initiating and supporting new projects to combat poverty, and encouraging participation by members of the community in development of programs and projects affecting their interests. A ‘manpower development program’ is a program of occupational training for the economically disadvantaged, unemployed, and under-employed and may include, by way of illustration but not limitation, efforts to acquaint eligible persons with the availability of training; assessment of individual needs, potentialities, and interests; counseling and provision of training, including on-the-job training; allowances for training, and for transportation, subsistence, and other expenses while training; supportive services; and development of information on the labor market and its activities.

**Sec. 2.** This act shall apply only to the City of Durham.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1711

### CHAPTER 986

AN ACT TO AMEND THE CHARTER OF CITY OF DURHAM, CHAPTER 142, SECTION 21, PRIVATE LAWS OF 1921, TO PERMIT THE GOVERNING BODY OF CITY OF DURHAM TO AUTHORIZE THE CITY MANAGER TO PURCHASE REAL PROPERTY UPON CERTAIN PRESCRIBED CONDITIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Durham, the same being Chapter 142, Private Laws of 1921, is amended by adding a new paragraph at the end of Section 19 thereof, said paragraph to read as follows:

“The City Council of the City of Durham may delegate authority to the City Manager to purchase real property or interest in real property, provided:

- (1) The purchase price of such real property or interest in real property shall not exceed one thousand dollars (\$1,000.00); and
- (2) The money for the purchase of such real property or interest in real property shall be available in the then current budget; and
- (3) The City Manager, within forty-five (45) days following such purchase, shall submit to the City Council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of such property or interest in property.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1712

### CHAPTER 987

AN ACT TO AMEND CHAPTER 428 OF THE SESSION LAWS OF 1969, AS THE SAME RELATES TO G.S. 143-129 OF THE GENERAL STATUTES CONCERNING DURHAM PURCHASING CONTRACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 428 of the Session Laws of 1969, as the same relates to G.S. 143-129 of the General Statutes is hereby amended by amending Section 1 thereof by deleting the words and figures “three thousand dollars (\$3,000.00)” in lines 4 and 5, and substituting in lieu thereof five thousand dollars (\$5,000)”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## H. B. 1731

## CHAPTER 988

AN ACT TO AMEND CHAPTER 890 OF THE 1971 SESSION LAWS TO BRING TWO TRACTS OF LAND WITHIN THE CORPORATE LANDS OF THE MINNESOTT BEACH.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 890 of the 1971 Session Laws is hereby amended by adding the following at the end of said section, which shall read as follows:

“In addition to the area defined immediately above, the corporate limits and boundaries of the Town of Minnesott Beach shall include the following:

TRACT ONE: Beginning in the centerline of the Bennett Place Road (Secondary Road 1121), and running northwestwardly along the northeast lines of the lands of Minnesott Beach, Incorporated and the George Boomer heirs to the Boomer north corner; thence southwestwardly along the northwestern line of the Boomer heirs land to the western corner of said land; thence southeastwardly with the southwestern line of said Boomer land to the western corner of the lands of Minnesott Beach, Incorporated; thence northeastwardly with the northwestern line of Minnesott Beach, Incorporated to the centerline of the Bennett Place Road; thence northeastwardly with said road centerline to the point of beginning.

TRACT TWO: Beginning in the edge of Neuse River at the southern corner of the State Department of Transportation’s ferry dock site, and running southeastwardly with the river to the corner of the lands of Raleigh Y.M.C.A., Inc.; thence northwardly along the western line of the lands of Raleigh Y.M.C.A., Inc., to the corner of the State Department of Transportation’s ferry dock site; thence southwestwardly with the line of said site to the point of beginning.”

Any of the above described land heretofore annexed by the Town of Arapahoe is withdrawn from the corporate limits of that town and included within the corporate limits of the Town of Minnesott Beach.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of March, 1974.

## S. B. 1401

## CHAPTER 989

AN ACT TO CONSOLIDATE THE GOVERNMENTS OF THE CITY OF DURHAM AND DURHAM COUNTY AND ENACT A CHARTER FOR THE CONSOLIDATED GOVERNMENT OF DURHAM AND DURHAM COUNTY SUBJECT TO APPROVAL OF THE VOTERS OF DURHAM COUNTY.

Whereas, the Durham City-County Charter Commission was established by act of the 1971 General Assembly of North Carolina (Ch. 600, 1971 Session Laws, as amended by Ch. 530, 1973 Session Laws); and

Whereas, the Commission has devoted over two years to the study of governmental arrangements in Durham County and the development of a proposed charter for a consolidated government; and

Whereas, the Commission held public hearings on a preliminary draft of a proposed charter on January 17 and February 1 of 1973 as required by Section 10 of Chapter 600 of the 1971 Session Laws; and

Whereas, on February 7, 1974, the Commission approved a final draft of a proposed charter for a consolidated government for the City of Durham and Durham County; and

Whereas, on February 7, 1974, the Commission set September 10, 1974, as the date for the holding of referendum in Durham County on the proposed charter and plan of consolidation; and

Whereas, Chapter 600 of the 1971 Session Laws provides that no new and consolidated government may become effective until it is approved by the voters of Durham County and its charter is enacted into law by the General Assembly of North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Government of Durham and Durham County is as follows:

**“THE CHARTER OF THE GOVERNMENT OF DURHAM AND DURHAM COUNTY.**

“Chapter 1. General Provisions.

“Article 1. Creation and Boundaries.

“Section 1-1. *Durham government established.*—(a) The powers, duties, rights, privileges and immunities of the City of Durham are consolidated with those of the County of Durham. These consolidated powers, duties, rights, privileges and immunities are exercised and enjoyed by a government for Durham County known as The Government of Durham and Durham County (herein called ‘the Durham government’). The government is the legal successor to the separate governments of the City of Durham and the County of Durham. Durham County continues as a county of the State of North Carolina, and the Durham government shall perform all the duties and serve all the purposes required of counties under the Constitution and laws of the State of North Carolina.

(b) The City of Durham is abolished as an independent municipal corporation.

“Sec. 1-2. *Boundaries.*—The Durham government has jurisdiction and extends territorially throughout Durham County.

“Sec. 1-3 through 1-5. Reserved.

“Article 2. Powers.

“Sec. 1-6. *Corporate powers.*—The inhabitants of Durham County are constituted a body politic and corporate under the name of The Government of Durham and Durham County and under that name have perpetual succession; shall have a common seal and may alter and renew it at will; may sue and be sued; may contract; may acquire and hold all property and rights of property, real and personal, that may be devised, bequeathed, sold or in any manner conveyed or dedicated to or otherwise acquired by them; and may hold, invest, sell or dispose of such property and rights of property.

“Sec. 1-7. *Grant of county and city powers.*—Except as otherwise provided in this charter, the Durham government and its officers and employees may exercise and do enjoy (1) all the powers, duties, rights, privileges and immunities that counties at or after the effective date of this charter may

exercise and do enjoy under the Constitution and general laws of the State of North Carolina, (2) all the powers, duties, rights, privileges and immunities that cities at or after the effective date of this charter may exercise and do enjoy under the Constitution and general laws of the State of North Carolina and (3) all the powers, duties, rights, privileges and immunities that the City of Durham or Durham County at the effective date of this charter could exercise and enjoy under special acts of the General Assembly of North Carolina. All these special acts applying to the City of Durham or Durham County are continued and apply to the Durham government except as expressly repealed by this charter or when clearly inconsistent with the provisions of this charter.

Except as otherwise provided in this charter, the Durham government may exercise and does enjoy throughout its jurisdiction any power, duty, right, privilege or immunity granted to it by law.

In exercising and enjoying any power, duty, right, privilege or immunity, the Durham government shall follow the procedures, if any, set out in this charter. If the charter contains a procedure that does not include all acts necessary to exercise the power, duty, right, privilege or immunity, the Durham government shall supplement the charter procedure by applicable procedures set out in other statutes. If no procedure is set out in the charter, the Durham government shall follow the procedure set out in any general or applicable local law granting the power, duty, right, privilege or immunity; and if two or more laws, other than this charter, grant the same power, duty, right, privilege or immunity, but with differing procedures, the Durham government may proceed under either. Before proceeding under either procedure, the Board of Government shall by resolution select which of the alternative procedures available under general law the Durham government shall follow. The Board may by resolution change the selection from time to time. The procedure set out in any statute, when employed by the Durham government, is deemed amended to conform to the structure and administrative organization of the Durham government. If a statute refers to the governing body or governing board of a county or city, the reference, except as otherwise provided in this charter, means the Board of Government; and a reference to a specific official means the official of the Durham government who most nearly performs the same duties performed by the specified official. If there is doubt as to the appropriate official, the Board shall by resolution designate an appropriate official to act as fully as if his office were specified in the statute.

#### “Chapter 2. The Board of Government.

##### “Article 1. The Governing Body.

“Sec. 2-1. *Composition; numbers of members; how elected.*—The governing board of the Government of Durham and Durham County is the Board of Government. It has sixteen members. There are sixteen electoral districts, and the qualified voters of each district shall elect one member of the Board.

“Sec. 2-2. *Terms.*—Except for the initial members of the Board of Government, who shall serve for the terms provided for in Section 10-9 of this charter, members of the Board are elected to four-year terms, and shall take office at the first regular meeting of the Board in December next following their election.

“Sec. 2-3. *Eligibility.*—To be eligible for election to, appointment to and service on the Board of Government, a person must be eligible for election by the people under the Constitution of North Carolina. In addition, no person may file

notice of candidacy for or be nominated, elected, appointed, or serve from a district in which he does not reside.

“Sec. 2-4. *Compensation.*—The initial base compensation of members of the Board of Government is two hundred dollars per month. In addition, each member of the Board is entitled to receive twenty-five dollars for attendance at each official meeting of the Board and of the committee of the whole, but the total of sums received for attendance at meetings may not exceed one hundred fifty dollars in any month.

The Board may by ordinance fix its own compensation, to become effective on December 1 following the next regular Durham government election following adoption of the ordinance.

“Sec. 2-5. *Vacancies.*—A vacancy in the membership of the Board of Government exists when a duly elected person fails to qualify, or when a member who has been duly elected and has qualified either dies, resigns, no longer meets the requirements of Section 2-3 of this charter, is removed or is recalled. The Board shall fill all vacancies. In order to qualify, the person appointed shall take and subscribe the oath required by the Constitution of North Carolina. The term of the appointed member extends to the first regular meeting of the Board in December following the next general Durham government election. At the next general Durham government election following the creation of a vacancy, a person shall be elected to the seat vacated, either for the remainder of the unexpired term, or if the term has expired, to a four-year term.

“Sec. 2-6 through 2-10. Reserved.

“Article 2. Organization, Rules, Officers.

“Sec. 2-11. *Organizational meetings.*—The Board of Government shall meet on the date of the first regular meeting of the Board in December next following each Durham government election. At that meeting, the Mayor and each member of the Board whose term of office begins that day shall take and subscribe the oath required by the Constitution of North Carolina. The Clerk of Superior Court shall administer the oath. A member absent from the organizational meeting may take and subscribe the oath at a later time.

“Sec. 2-12. *Mayor Pro Tempore; duties.*—At the first regular meeting of the Board of Government in December next following each Durham government election, the Board shall elect from among its members a Mayor Pro Tempore to serve a two-year term. The Mayor Pro Tempore shall preside at meetings of the Board in the absence of the Mayor.

The Mayor Pro Tempore is a member of the Board for all purposes, including the determination of whether a quorum is present.

In the event of a vacancy in the office of Mayor, the Mayor Pro Tempore shall act as Mayor until a Mayor is appointed by the Board pursuant to this charter.

“Sec. 2-13. *Rules.*—Consistent with this charter, the Board of Government may adopt its own rules of procedure. The Board shall adopt rules under which the public shall be afforded reasonable opportunity to be heard on any matter before the Board.

“Sec. 2-14. *Quorum; voting.*—Nine members of the Board of Government or eight members of the Board and the Mayor constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of

the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

The vote of each member on each ordinance shall be recorded in the official minutes. Voting by proxy is not allowed.

If a matter before the Board involves a member's official conduct or his personal or financial interest, the member must state the nature and extent of his interest. The Board, in its discretion, may excuse the member from voting upon matters involving his official conduct or his personal or financial interest but may not excuse a member from voting for any other reasons. In all other cases, a member is required to vote on matters before the Board.

A member who is present and fails to vote or who having been present has withdrawn from the meeting without being excused by the remaining members of the Board shall be recorded as having voted affirmatively.

No action may be taken except by an affirmative vote of a majority of the votes cast. Except when a greater number is required by law, an affirmative vote of a majority of all of the members of the Board, including the Mayor, not excused from voting on the question in issue is required to adopt an ordinance or take any action having the effect of an ordinance or ratify or authorize any contract on behalf of the Durham government except that only a simple majority of the votes cast is required to adopt a budget ordinance.

"Sec. 2-15. *Meetings.*—The Board of Government shall hold its regular meetings in the evening at a time starting after 6:00 p.m. The Board shall fix the time, day and place of its regular meetings and shall hold at least one regular meeting each month. A meeting of the committee of the whole is not a regular meeting of the Board. The Mayor, a majority of the members of the Board or the Chief Administrative Officer may call a special meeting of the Board. The person or persons calling the meeting shall, at least 24 hours in advance of the meeting, cause a written notice of the meeting to be delivered to each member or to be left at his usual residence or place of business. He or they shall also cause public notice of the meeting to be made at least 24 hours in advance of the meeting. The notice shall state the time and place of the meeting and the business to be transacted, and shall be signed by the person or persons calling the meeting. Only the business stated in the notice may be transacted at the meeting.

The Mayor, a majority of the members of the Board or the Chief Administrative Officer may call a meeting to deal with an emergency. The notice provisions of this section do not apply to those meetings. The Board shall specify by ordinance the procedure for calling a meeting to deal with an emergency.

"Sec. 2-16 through 2-19. Reserved.

"Article 3. Legislative Powers and Ordinance Procedure.

"Sec. 2-20. *Legislative power.*—All legislative powers of the Durham government are vested in the Board of Government.

"Sec. 2-21. *Ordinance procedure.*—(a) Adoption. No ordinance nor any action having the effect of an ordinance may be adopted on the date on which it is introduced except by an affirmative vote of at least twelve members of the Board of Government or of eleven members of the Board and the Mayor. No ordinance making a grant, renewal, extension or amendment of any franchise may be finally adopted until it has been passed at two regular meetings of the Board.

(b) Effective date. Bond orders, franchise, appropriation, revenue, and budget ordinances and any ordinance that by law may not be adopted without prior public notice and a public hearing become effective as provided in the ordinance. All other ordinances become effective at the expiration of 30 days after adoption or at any later date specified in the ordinance except an ordinance may take effect upon adoption if the Board determines that immediate operation of the ordinance is necessary to protect the health, safety or welfare of the citizens of Durham County or the public peace and dignity. Any such ordinance that is to become effective upon adoption shall contain a declaration stating in clear and specific terms the reason for its immediate effective date.

“Article 4. Initiative and Referendum.

“Sec. 2-22. *General authority.*—(a) Initiative power. The qualified voters of the Durham government have the power to propose any ordinance to the Board of Government, except a budget ordinance, bond order, franchise ordinance or any ordinance creating, expanding or abolishing an urban service district. The initiative process may be used to repeal any ordinance that could be proposed under the initiative process except that it may not be used to repeal any ordinance affirmed by a referendum election within one year after the referendum vote. If the Board fails to adopt the ordinance without substantive change, the voters have the power to approve or reject the proposed ordinance at the polls. These powers comprise the initiative power.

(b) Referendum power. The qualified voters of the Durham government have the power to require reconsideration by the Board of Government of any adopted ordinance, except a budget ordinance, bond order, franchise ordinance or any ordinance that by law may not be adopted without prior public notice and a public hearing. If the Board fails to repeal an ordinance which it has been required to reconsider, the voters shall have the power to approve or reject the referred ordinance at the polls. These powers comprise the referendum power.

“Sec. 2-23. *Commencement of proceedings.*—Any five qualified voters may commence an initiative or referendum petition by filing with the Durham government clerk an affidavit stating that they will constitute the petitioners’ committee and will be responsible for circulating the petition and filing it in proper form.

“Sec. 2-24. *Petitions.*—(a) Signatures. An initiative or referendum petition shall bear the signatures equal in number to at least ten percent of the registered voters of the Durham government or 5,000, whichever is less.

(b) Form and content. The Board of Government by ordinance shall specify the form and content of a petition and procedures for initiative and referendum elections.

(c) Time for filing. An initiative petition may be filed at any time. A referendum petition must be filed within 30 days after adoption by the Board of Government of the ordinance sought to be reconsidered.

“Sec. 2-25. *Certification.*—The petition shall be filed with the Durham government clerk and the signatures shall be verified by the Durham County Board of Elections. The Board of Government by ordinance shall specify the procedures for certifying the sufficiency of a petition. The Board shall provide in the ordinance reasonable time limits for completing the certification of sufficiency or insufficiency of a petition.

“Sec. 2-26. *Suspension of effective date of referred ordinance.*—When, within the time allowed, a referendum petition is filed with the Durham government

clerk, the ordinance sought to be reconsidered shall be suspended from taking effect, except an ordinance which takes effect upon adoption as provided in Section 2-21(b) of this charter shall continue in effect until repealed. The suspension of the effective date of an ordinance shall terminate when:

- (a) There is a final determination that the petition is insufficient,
- (b) The petitioners' committee withdraws the petition, or
- (c) The Board of Elections certifies that the repeal of the ordinance has been rejected in an election.

"Sec. 2-27. *Consideration by Board of Government and submission to vote.*—When an initiative or referendum petition has been finally determined sufficient, the Board of Government shall promptly consider it. If the Board fails to adopt without substantive change an ordinance proposed by initiative petition or fails to repeal a referred ordinance within 60 days after the date on which the petition was certified as sufficient, the Board shall cause the proposed ordinance or the referred ordinance to be submitted to the voters of the Durham government. The vote on the proposed ordinance or the referred ordinance shall be held within 120 days of the date on which the petition was certified as sufficient.

"Sec. 2-28. *Withdrawal of petition.*—The petitioners' committee may withdraw the initiative or referendum petition at any time prior to the fifteenth day immediately preceding the day scheduled for a vote on the proposed or referred ordinance. The written request for withdrawal shall be signed by at least four members of the petitioners' committee and shall be filed with the Durham government clerk. The filing of the request withdraws the petition. The petition has no further effect and all proceedings are terminated.

"Sec. 2-29. *Results of election.*—(a) Initiative. If a majority of those voting in an initiative election approve the proposed ordinance, it shall become an ordinance of the Durham government on the date the results of the election are certified or a later effective date specified in the proposed ordinance.

(b) Referendum. If a majority of those voting in a referendum election approve the repeal of the referred ordinance, it shall be repealed on the date the results of the election are certified. If a majority of those voting in the election reject the repeal of the ordinance, the ordinance shall be an ordinance of the Durham government and shall become effective on the date the results of the election are certified or a later effective date specified in the referred ordinance.

#### "Chapter 3. Mayor.

##### "Article 1. Qualification and Election.

"Sec. 3-1. *Election; term.*—The qualified voters of the entire Durham government elect the Mayor to a two-year term of office. He assumes office at the first regular meeting of the Board of Government in December next following his election.

"Sec. 3-2. *Eligibility.*—To be eligible for election to, appointment to and service as Mayor, a person must be eligible for election by the people to office under the Constitution of North Carolina.

"Sec. 3-3. *Compensation.*—The initial annual compensation of the Mayor is six thousand dollars. The Board of Government may by ordinance fix his compensation, to become effective on December 1 following the first regular Durham government election following adoption of the ordinance.

"Sec. 3-4. *Vacancy.*—A vacancy in the office of Mayor exists when a duly elected person refuses to qualify or when a person who has been elected and has

qualified dies, resigns, no longer meets the requirements of Section 3-2 of this charter, is removed or is recalled. The Board of Government shall fill any vacancy by appointing a person to the remainder of the unexpired term. In order to qualify, the person appointed shall take and subscribe the oath required by the Constitution of North Carolina.

“Sec. 3-5. *Absence; temporary incapacity.*—The Mayor may designate the Mayor Pro Tempore to serve as acting mayor while the Mayor is absent from the county. If the Board of Government, by a vote of twelve of its members, determines that the Mayor is temporarily incapacitated, the Mayor Pro Tempore shall serve as acting mayor for the duration of the incapacity. Nine members of the Board may determine that the Mayor’s incapacity has terminated.

If an emergency arises during the absence of the Mayor from the county, the Board, by a vote of twelve of its members, may designate the Mayor Pro Tempore to serve as acting mayor. The designation of the Mayor Pro Tempore as acting mayor terminates when the Mayor is no longer absent from the county or when nine members of the Board determine that the emergency has ended.

When serving as acting mayor, the Mayor Pro Tempore shall have the powers, duties, rights, privileges and immunities of the office of Mayor.

“Article 2. Powers and Duties.

“Sec. 3-6. *Powers and duties.*—The Mayor is the official head of the Durham government. Consistent with the provisions of this charter, he has all the powers, duties, rights, privileges and immunities granted to and imposed on chairmen of boards of county commissioners and mayors of cities by the general laws of North Carolina.

He shall preside at meetings of the Board of Government and has the rights, powers, duties and responsibilities of a member of the Board.

The Mayor, unless some other officer or employee is authorized by the Board, shall sign each written contract or obligation of the Durham government and any of its agencies, boards, commissions and authorities. No contract or obligation of the Durham government or any of its agencies, boards, commissions and authorities required to be in writing is binding on them until so signed.

“Chapter 4. Elections and Removal.

“Article 1. Conduct of Elections.

“Sec. 4-1. *Applicability of general laws.*—Except as otherwise provided in this charter, Chapter 163 of the General Statutes as applicable to cities governs the elections for the office of Mayor and for membership on the Board of Government. When used in Chapter 163, the word ‘city’ or ‘cities’ includes the Durham government. The office of Mayor and membership on the Board are city offices.

“Sec. 4-2. *Election board; officials.*—The County Board of Elections shall conduct the elections for the Durham government. The election officials appointed by the County Board of Elections shall be the election officials for Durham government elections.

“Sec. 4-3. *Types of elections.*—The Mayor and members of the Board of Government shall be elected by the nonpartisan primary and election method as provided in G.S. 163-290 and 163-294.

“Sec. 4-4. *Filing fee.*—The filing fee for the initial primary shall be sixty dollars for the office of Mayor and forty-two dollars for membership on the

Board of Government. The Board of Government may modify the filing fee for primaries no later than July 1 immediately preceding the first primary to which it is to apply.

“Sec. 4-5. *Absentee ballots.*—The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes shall apply to the elections of the Mayor and members of the Board of Government.

“Sec. 4-6. *Regulation of campaign expenses.*—Article 22 of Chapter 163 of the General Statutes applies to elections held under this article.

“Sec. 4-7 through 4-9. Reserved.

“Article 2. Districts, Reapportionment.

“Sec. 4-10. *Districts established.*—The boundaries and the numbers of the 16 electoral districts are set out in Chapter 11 of this charter.

“Sec. 4-11. *Commission established; membership.*—By July 1 of the year in which an official federal census is taken, the Board of Government shall establish a Districting Commission of 16 members. Each member of the Board shall appoint to the Commission one person who resides in the electoral district that the member represents. The Commission functions until a new districting plan is adopted or until it determines that a new districting plan is unnecessary.

“Sec. 4-12. *Redistricting.*—After publication of the official federal census, the Districting Commission shall determine the population of each existing electoral district and whether redistricting is necessary because the population among districts is substantially unequal. If there is a difference of at least ten percent between the populations of the most populated and of the least populated districts, the population shall be deemed to be substantially unequal. The Commission, moreover, may determine that a difference of less than ten percent causes the population to be substantially unequal. If the Commission finds that the population of the districts is substantially unequal, the Commission shall adopt a plan of redistricting no later than July 1 of the year following the year in which the official federal census was taken. The districts as established by the plan shall be the basis for electing members of the Board of Government at the first election following its adoption and each election thereafter until a new plan is adopted. The plan shall take effect on the date of the first regular meeting of the Board in December next following the first election to which the plan applied.

In any plan adopted, all electoral districts shall be as nearly equal in population as possible; the districts shall assure, as reasonably as possible, equitable representation on the Board of races, socio-economic groups and geographic sections of the county; and each district shall be formed of compact, contiguous territory and its boundary lines, to the extent possible, shall follow natural or distinctive features such as rivers, roads and streets.

The Commission shall certify any new districting plan to the Durham County Board of Elections within seven days after its adoption by the Commission.

If a plan causes a vacancy on the Board, the vacancy shall be filled at the first election to which the plan is to apply. The person elected to fill the vacancy shall take office at the first regular meeting of the Board in December next following his election, and is elected to the remainder of the unexpired term. If two or more members of the Board are found to reside in a single new district created by the adoption of a new districting plan, the member who previously occupied the district with the same number as the number of the new district shall be the

representative of that district. If two or more members of the Board reside in a newly formed district, the number of which is different from that of the district either previously represented, a vacancy on the Board from that district shall be deemed to have been caused by the adoption of the new districting plan.

“Sec. 4-13 through 4-16. Reserved.

“Article 3. Removal.

“Sec. 4-17. *Removal by the Board of Government.*—The Board of Government after a removal hearing and an affirmative vote of twelve of its members or of eleven members and the Mayor may remove from office a member of the Board or the Mayor for nonfeasance, misfeasance, malfeasance or conviction of a crime involving moral turpitude. A member of the Board or the Mayor may initiate removal by making a motion at a Board meeting calling for the removal of an officer. The motion shall specify the grounds on which removal is sought. The Durham government clerk shall cause written notice of the motion and a copy of the charges to be given to the officer against whom removal is sought at least ten days before the removal hearing. At the removal hearing, the officer shall have the right to be heard in person and by counsel in his defense. If a member of the Board or the Mayor is removed, the vacancy shall be filled as provided in Section 2-5 or Section 3-4 of this charter.

“Sec. 4-18. *Recall.*—The Mayor, a member of the Board of Government, a member of the Durham County Board of Education and the Register of Deeds are subject to removal pursuant to this section. An officer is removed upon the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on the question of removal at a recall election.

A recall petition shall be filed with the Durham County Board of Elections. A petition to recall the Mayor, a member of the Durham County Board of Education or the Register of Deeds shall bear the signatures equal in number to at least twenty percent of the registered voters in the Durham government. A petition to recall a member of the Board of Government shall bear the signatures equal in number to at least twenty percent of the registered voters in the district that the member represents.

The Board of Elections shall verify the petition signatures. If a sufficient recall petition is submitted, the Board of Elections shall certify its sufficiency to the Board of Government, and the Board of Government shall adopt a resolution calling for a recall election to be held not less than 40 days nor more than 60 days after the petition has been certified to the Board of Government. The election may be held by itself or at the same time as any other general or special election within the period. The Board of Elections shall conduct the recall election. The proposition submitted to the voters shall be substantially in the following form:

For the recall of (name of officer)

Against the recall of (name of officer)

The registered voters of the Durham government are eligible to vote in an election to recall the Mayor, a member of the Board of Education or the Register of Deeds. In an election to recall a member of the Board of Government, only the voters registered in the district that the member to be recalled represents are eligible to vote.

If a majority of the votes cast on the question are against the officer's recall, he shall continue in office, but is subject to recall as before. If a majority of the votes cast on the question are for the recall of the officer, he is removed on the

date the Board of Elections certifies the results of the election. A vacancy created by removal of a member of the Board of Government or the Mayor shall be filled as provided in Section 2-5 or Section 3-4 of this charter. A vacancy created by removal of a member of the Board of Education shall be filled as provided in Chapter 296 of the 1963 Session Laws. A vacancy created by the removal of the Register of Deeds shall be filled by the Board of Government.

“Chapter 5. Administrative.

“Article 1. General Administration.

“Sec. 5-1. *Initial administrative organization.*—The initial administrative organization of the Durham government is that of the merging governments on the effective date of this charter and shall continue until changed by law or in accordance with the provisions of this charter.

“Sec. 5-2. *Administrative reorganization.*—Except as restricted by this charter or the general law of the State, the Board of Government may reorganize the administrative structure of the Durham government by creating, consolidating, reorganizing and abolishing offices, positions, departments, committees, agencies, boards, commissions and authorities of the Durham government. In a plan of reorganization, the Board may impose additional powers and duties on any office, position, department, committee, agency, board, commission or authority. Except by amendment of this charter, however, no office, position, department, committee, agency, board, commission or authority expressly established or continued by this charter may be abolished, nor may any power, duty, right, privilege or immunity expressly conferred by this charter be removed or abolished.

“Sec. 5-3 through 5-5. Reserved.

“Article 2. Chief Administrative Officer.

“Sec. 5-6. *Appointment; qualifications; term.*—The Board of Government shall appoint the Chief Administrative Officer to hold office at the pleasure of the Board. The Chief Administrative Officer shall be appointed solely on the basis of his executive and administrative qualifications and need not be a resident of Durham County when appointed.

“Sec. 5-7. *Duties and responsibilities.*—The Chief Administrative Officer shall:

(a) See that the laws of the State and the ordinances, resolutions, rules and regulations of the Durham government are faithfully executed and enforced within the county.

(b) Attend all meetings of the Board of Government and recommend for adoption any measure he deems expedient.

(c) Make reports to the Board from time to time upon the affairs of the Durham government and keep the Board fully advised of the Durham government's financial condition and its future financial needs.

(d) Appoint and suspend or remove all Durham government employees whose appointments or selections are not otherwise provided for in this charter or by general law, in accordance with personnel rules, regulations, policies or ordinances adopted by the Board.

(e) Prepare and submit the annual budget and capital program to the Board.

(f) Direct and supervise the administration of all departments, boards, offices, agencies and commissions of the Durham government, subject to the general direction and control of the Board, except as otherwise provided by law.

(g) Exercise any other powers and perform any other duties authorized by the Board and not inconsistent with this charter or with the general law of the State.

“Sec. 5-8. *Absence or disability.*—By letter filed with the Durham government clerk, the Chief Administrative Officer may designate, subject to the approval of the Board of Government, a qualified person to exercise the powers and perform the duties of the Chief Administrative Officer during his temporary absence or disability. During this absence or disability, the Board may revoke that designation and appoint another to serve until the Chief Administrative Officer returns or his disability ceases.

“Sec. 5-9 through 5-11. Reserved.

“Article 3. Personnel.

“Sec. 5-12. *Personnel system.*—The Board of Government shall establish by ordinance a system of personnel administration. The system shall cover all employees of the Durham government except as otherwise provided by law.

The system shall not cover (a) elected officials, (b) employees of the Durham City and County Boards of Education and (c) employees of any committee, agency, board, commission and authority authorized to appoint its own chief administrative officer except as otherwise provided in this charter or other law. Employees of the Sheriff and Register of Deeds are appointed, supervised and discharged pursuant to the provisions of general law. Employees subject to State or federal civil service regulations and procedures may be made subject to the personnel ordinances of the Durham government in any manner consistent with State or federal regulations and procedures.

The system of personnel administration may provide for classification of positions, the manner and method of publicizing vacancies, employing and appointing personnel, the qualifications of employees, employee evaluations and performance, salaries, hours of employment, vacations, sick leave, special workman's compensation leave, job security, promotion, demotion, disciplinary procedures, transfer, layoff, removal, welfare of employees, retirement policy, payment of premiums for employee insurance benefits, grievance procedures, service awards, training leave and any other measures that promote the hiring and retaining of capable, diligent and honest career employees.

“Sec. 5-13. *Discrimination prohibited.*—It is the policy of the Durham government and its committees, agencies, boards, commissions and authorities that appointment, promotion, demotion, transfer, layoff, disciplinary action, removal, rates of compensation, employee benefits and all other personnel matters shall be determined without respect to race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

The Durham Human Relations Commission shall annually make a survey of the personnel practices of the Durham government and its committees, agencies, boards, commissions and authorities to assess the extent to which the policy of non-discrimination is being followed. The Commission shall make a report of its findings to the Board of Government on the third Monday of January of each year and may make recommendations to the Board for actions or changes in practices the Commission deems appropriate to the full observation of the policy.

The Durham Human Relations Commission is authorized, on its own, to initiate investigations of employment practices and to hear grievances by employees or prospective employees of the Durham government who allege that they have been discriminated against because of race, color, religion, sex, national origin, age, political affiliation or any circumstances other than merit and qualification.

Any employee or prospective employee of the Durham government who claims that he has been discriminated against or denied opportunities because of race, color, religion, sex, national origin, age, political affiliation or any circumstances other than merit and qualification may file a signed, written complaint with the Commission. The complaint shall include the name of the department head, supervisor or officer alleged to have committed the discriminatory practice, a description of the alleged discriminatory practice and any other information required by the Commission. After the filing of the complaint, the Commission shall cause a prompt investigation to be made.

All department heads, supervisors or officers shall cooperate with the Human Relations Commission in the conduct of any investigation.

If the Commission determines after the investigation that there is insufficient evidence to support the complaint, it shall within ten days of the determination give the complainant written notice of its findings. The complaint is then dismissed unless the complainant requests a review hearing within ten days after receipt of the Commission's findings. Upon the request for a review hearing, the Commission shall provide an opportunity for the complainant or his attorney to appear before the Commission and present any additional information to support the allegations of the complaint. The Commission shall also provide an opportunity for the department head, supervisor or officer alleged to have committed the discriminatory practices to be heard. If after hearing the additional information the Commission determines that there is insufficient evidence to support the allegation, the complaint shall be dismissed.

Complainants and employees representing them or testifying at a hearing or assisting in any manner in an investigation under this section shall be free from restraint, interference, retaliation or coercion, at any stage in the presentation and processing of a complaint or at any time thereafter. No employee who has filed a complaint or assisted in any manner in an investigation of a complaint may be subject to loss of pay through discharge or demotion or transfer within 120 days of the date of final action on the complaint by the Human Relations Commission unless and until the Commission finds that no retaliation or reprisal is involved in the personnel action. The Commission is authorized to make an investigation and hold hearings to determine whether retaliation or reprisal is involved in such actions.

If the Commission after any investigation determines that a pattern and practice of discrimination exists, it may endeavor to eliminate the discriminatory practice by persuasion, force of publicity or any other reasonable and appropriate means.

If, after investigation of any complaint, the Commission determines that an applicant for employment has been discriminated against and except for that reason would have been hired, or an employee has been discharged, demoted, denied promotion, transferred against his wishes, or unfairly disciplined solely because of discrimination, it shall make appropriate certification of its findings

to the Board of Government. The Board may instruct the Chief Administrative Officer to offer the applicant employment of the type and grade denied, to rehire and award back pay to the discharged employee, to promote and award back pay to the employee denied promotion or demoted, to return to his former position the employee who has been transferred against his will, or to take any appropriate remedial action in the case of an unfairly disciplined employee including expunction from the personnel record of any reference to any disciplinary action.

“Article 4. Special Appointments.

“Sec. 5-14. *Legal department.*—The Board of Government shall appoint a chief legal officer to serve at the pleasure of the Board. The chief legal officer provides legal services for the Durham government, and he may appoint necessary assistants.

“Sec. 5-15. *Durham government clerk.*—The Board of Government shall appoint a Durham government clerk to serve at the pleasure of the Board. The clerk shall keep the record and minutes of the Board and perform any other duties that may be required by law or by the Board.

“Sec. 5-16 through 5-18. Reserved.

“Article 5. Continuing Offices.

“Sec. 5-19. *Sheriff continued.*—The office of Sheriff of Durham County continues within the Durham government as provided in the Constitution and laws of North Carolina.

“Sec. 5-20. *Duties continued.*—The duties of the Sheriff of Durham County continue within the Durham government as provided in the Constitution and laws of North Carolina.

“Sec. 5-21. *Powers and duties of law enforcement personnel.*—The Board of Government may provide for the appointment of law enforcement personnel of varying ranks or grades. Law enforcement personnel of the Durham government have throughout Durham County the arrest powers of a Sheriff and the powers and duties of city police officers under the laws of North Carolina.

“Sec. 5-22. *Register of Deeds continued.*—The office of Register of Deeds of Durham County continues within the Durham government as provided in the laws of North Carolina.

“Sec. 5-23. *Duties continued.*—The duties of the Register of Deeds of Durham County continue within the Durham government as provided in the laws of North Carolina.

“Sec. 5-24 through 5-26. Reserved.

“Article 6. Planning and Regulation of Development.

“Sec. 5-27. *Creation of planning department; duties and responsibilities.*—The Board of Government shall create a professionally-staffed Department of Planning within the administrative structure of the Durham government to take effect on July 1, 1976.

The Department of Planning shall:

(a) Be responsible for current planning, urban renewal planning, research and studies of the Durham area and providing technical assistance to other departments in planning for the Durham government;

(b) Prepare a comprehensive development plan for Durham County and the Durham government based on a survey of land capability and use and on community goals;

(c) Draft recommended zoning ordinances, zoning maps, subdivision regulations and other land development controls in order to implement the comprehensive development plan;

(d) Review requests for changes or amendments to the zoning ordinance and make a report of its recommendations to the appropriate zoning agency;

(e) Review subdivision plans, conduct public hearings, and grant approval or disapproval of proposed plats; no subdivision plat may be filed or recorded by the register of deeds until it has been approved by the Planning Department;

(f) Provide assistance to the Citizens Planning Commission and to other Durham government departments in goal formulation, policy planning, programming, human resource planning, economic planning and data bank operations; and

(g) Perform any other related duties that the Board of Government may authorize or the Chief Administrative Officer may direct.

“Sec. 5-28. *Establishment of Citizens Planning Commission; membership.*—The Board of Government shall establish a Citizens Planning Commission of seventeen members appointed to three-year staggered terms to take effect on July 1, 1976. The Board shall appoint one member from each of the sixteen electoral districts and a chairman-at-large.

The terms of the initial members of the Commission begin on July 1, 1976. Initially, the chairman and members appointed from Districts 1, 4, 7, 10, 13 and 16 shall serve terms of three years; members appointed from Districts 2, 5, 8, 11 and 14 shall serve terms of two years; and members appointed from Districts 3, 6, 9, 12 and 15 shall serve terms of one year. Thereafter, all terms are three years. No member may serve for more than two consecutive three-year terms.

“Sec. 5-29. *Powers and duties of the Commission.*—The Citizens Planning Commission:

(a) Shall develop and recommend to the Board of Government proposed statements of comprehensive community goals and objectives in the development of Durham County.

(b) Shall be afforded an opportunity to review all proposed development plans prepared by the Planning Department and all plans for the construction or expansion of public facilities and services by each department, committee, agency, board, commission and authority of the Durham government and to make recommendations on the plans prior to their implementation or adoption by the Board of Government. All departments, committees, agencies, boards, commissions and authorities shall cooperate with the Citizens Planning Commission and provide information and assistance necessary to the Commission's review.

(c) May review requests for amendments to the zoning ordinance and make recommendations to the appropriate zoning agency.

(d) May periodically make comprehensive reviews of the zoning ordinance, zoning map, subdivision regulations and other land development controls; and after its review may make recommendations to the Board of Government or Planning Department and propose amendments to the zoning ordinance, zoning map, subdivision regulations or other land development controls.

(e) May conduct public hearings on any matter that the Commission is authorized to consider except the review of requests for amendments to the zoning ordinance. The Commission is not authorized and may not be authorized to hold hearings on amendments to the zoning ordinance.

In addition to the powers and duties specified in this section, the Commission may exercise any power or duty not inconsistent with this Article that is conferred on planning commissions by general law.

“Sec. 5-30 through 5-31. Reserved.

“Sec. 5-32. *Authority to prescribe planning and zoning procedures.*—The Board of Government shall, by ordinance to become effective July 1, 1976, establish one or more agencies to perform the duties set out in Article 19 of Chapter 160A of the General Statutes of North Carolina that are not otherwise specifically provided for in this Article. The Board may designate an officer or one or more agencies to hold any public hearings required by law to be held prior to the adoption or amendment of a zoning ordinance.

“Chapter 6. Boards and Commissions.

“Article 1. Continuation and Creation.

“Sec. 6-1. *General power of the Board of Government.*—The Durham government, except as limited by this charter or general law or special act of the General Assembly, may create new committees, agencies, boards, commissions and authorities and may abolish or modify any existing committees, agencies, boards, commissions and authorities.

“Article 2. General Provisions.

“Sec. 6-2. *Applicability.*—Except as expressly provided in this charter, each committee, agency, board, commission and authority established or continued by this charter or hereafter created is subject to the provisions of this Article.

“Sec. 6-3. *Equitable representation.*—It is the policy of the Durham government that all committees, agencies, boards, commissions and authorities established under this charter, local acts, general law or by ordinance or resolution of the Board of Government be constituted with memberships that equitably represent each race, sex, socio-economic group and geographic area of the county. It is the duty of the Board and any Durham government official who appoints members to committees, agencies, boards, commissions or authorities to implement this policy.

“Sec. 6-4. *Terms and vacancies.*—Terms begin on February 1 unless the Board of Government provides otherwise. Vacancies are filled in the same manner as the original appointments.

“Sec. 6-5. *Compensation.*—The Board of Government shall set the compensation and allowances, if any, to be paid members of committees, agencies, boards, commissions and authorities.

“Sec. 6-6. *Officers and procedures.*—At its initial meeting and in February of each subsequent year, each committee, agency, board, commission and authority shall elect a chairman and may elect other officers. A majority of the members of any committee, agency, board, commission or authority constitutes a quorum. Each committee, agency, board, commission and authority may determine its own rules of procedure. All administrative heads of departments, committees, agencies, boards, commissions and authorities shall cooperate with and provide information about current and proposed programs and activities to the membership of the committees, agencies, boards, commissions or authorities that serve in an advisory capacity to the administrative heads or to the Board of Government.

“Sec. 6-7 through 6-10. Reserved.

“Article 3. Boxing and Wrestling Commission.

“Sec. 6-11. *Commission continued.*—The Boxing and Wrestling Commission, heretofore created and existing, is continued by this charter.

“Sec. 6-12. *Commission membership.*—The Boxing and Wrestling Commission consists of five members, appointed by the Board of Government to three-year terms.

“Sec. 6-13. *Boxing and wrestling matches permitted.*—It is lawful to engage in, manage or promote boxing matches not in excess of fifteen rounds and wrestling matches in Durham County. No match may be held, however, without the written approval of the Boxing and Wrestling Commission.

“Sec. 6-14. *Powers and duties.*—The Boxing and Wrestling Commission may:

(a) Establish regulations governing all boxing and wrestling matches staged pursuant to this article and recommend to the Board of Government which of those regulations ought to be enacted as ordinances of the Durham government;

(b) Stop a match at any time, even after approval has been given for the holding of such boxing or wrestling match; and

(c) Fix and collect a uniform license fee for each boxing and wrestling match staged in accordance with this article. The fee may not exceed five per cent of the gross proceeds from ticket sales for each match. The net proceeds from license fees shall be used for recreational, charitable or other public purposes as the Board of Government may direct.

“Sec. 6-15. *Penalties for violations.*—Any person engaging in, promoting, or aiding and abetting any boxing or wrestling match that has not been approved in writing by the Boxing and Wrestling Commission is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned not more than six months, in the discretion of the court.

“Sec. 6-16 through 6-18. Reserved.

“Article 4. Parks and Recreation  
Advisory Committee.

“Sec. 6-19. *Committee continued; membership.*—The Recreation Advisory Committee, heretofore created and existing, is continued by this charter under the name of the Parks and Recreation Advisory Committee. The Parks and Recreation Advisory Committee has seventeen members appointed by the Board of Government to four-year staggered terms. The twelve members of the Recreation Advisory Committee serving at the effective date of this charter continue as members of the Parks and Recreation Advisory Committee. The three members whose three-year terms expire in 1976 and the three youth members whose one-year terms expire in 1976 shall serve until February 1, 1976. By February 1, 1976, when the terms of the six above listed members expire, the Board of Government shall appoint six replacement members and five additional members to the Committee. At the initial meeting of the full seventeen-member Committee, all members shall draw lots to determine the lengths of their initial terms. The terms of eight extend to February 1, 1978, and the terms of nine extend to February 1, 1980.

The Board shall replace the eight members whose terms extend to February 1, 1978, by appointing members from Districts 1, 3, 5, 7, 9, 11, 13 and 15. Those members shall be appointed to four-year terms and shall be replaced by members residing in the same electoral district from which they were appointed.

The Board shall replace the nine members who serve until February 1, 1980, by appointing one member from the Durham government at-large and members from Districts 2, 4, 6, 8, 10, 12, 14 and 16. Those nine members shall be appointed to four-year terms and shall be replaced by members residing in the same electoral district from which they were appointed or, in the case of the member at-large, shall be replaced from the Durham government at-large.

The Board shall make each at-large appointment by appointing one of two persons nominated by the Mayor. In making district appointments, the Board shall appoint one of two persons nominated by the member of the Board of Government from that district.

No member may serve for more than two consecutive four-year terms.

“Sec. 6-20. *Officers.*—In February of each year, the Parks and Recreation Advisory Committee shall elect a chairman, vice-chairman and secretary from among its members.

“Sec. 6-21. *Powers and duties.*—The Parks and Recreation Advisory Committee shall advise the director of parks and recreation and the Board of Government with respect to program activity and the need for and site location of parks and recreation facilities.

“Sec. 6-22 through 6-23. Reserved.

“Article 5. Durham Public Library.

“Sec. 6-24. *Board and Library continued.*—The Board of Trustees for the Durham City-County Library, heretofore created and existing, is continued by this charter under the name of the Board of Trustees for the Durham Public Library. Except as provided in this article, the Board and the library shall operate under the provisions of the general laws of the State.

“Sec. 6-25. *Membership.*—The Board of Trustees for the Durham Public Library shall consist of sixteen trustees appointed by the Board of Government to three-year staggered terms. The Board shall appoint one trustee from each of the sixteen electoral districts. No trustee may serve more than two consecutive three-year terms.

In appointing trustees, the Board of Government shall consider recommendations from the Board of Trustees and from interested community groups. The Board of Government may remove a trustee for incapacity, unfitness, misconduct, or neglect of duty.

“Sec. 6-26. *Transition.*—The twelve trustees of the Board of Trustees serving at the effective date of this charter continue as trustees for the Durham Public Library until the February 1 following the effective date of the Durham government at which time the Board of Government shall appoint sixteen trustees as provided in Section 6-25. Initially, the Board shall appoint trustees from Districts 1, 3, 5, 7, 9, 11, 13 and 15 to two-year terms and shall appoint trustees from Districts 2, 4, 6, 8, 10, 12, 14, and 16 to three-year terms. Thereafter, all terms are three years.

“Sec. 6-27 through 6-29. Reserved.

“Article 6. Durham City Board of Education.

“Sec. 6-30. *City Board of Education not affected.*—Nothing in this charter affects the powers and duties of the Durham City Board of Education.

“Sec. 6-31. *Appointment.*—The Board of Government shall appoint the members of the Durham City Board of Education. Members of the Durham City Board of Education shall reside within the boundaries of the city school administrative unit.

“Sec. 6-32 through 6-35. Reserved.

“Article 7. Durham County Board of Education.

“Sec. 6-36. *County Board of Education not affected.*—Nothing in this charter affects the powers or duties of the Durham County Board of Education.

“Chapter 7. Finances.

“Article 1. Revenue and Taxing Limitations.

“Sec. 7-1. *General authority to levy taxes and impose charges.*—The Durham Government may levy any tax and impose any fee or charge authorized by this charter or by the general laws of the State for cities and counties, subject to any limitations imposed by this charter.

“Sec. 7-2. *Property tax administration.*—Property in Durham County shall be listed, appraised and assessed and taxes on property shall be levied and collected as provided by general law for counties, except as otherwise provided in this charter.

“Sec. 7-3. *Property taxation authority and limitations.*—The Durham government may levy taxes on property to support any service, facility or function it is authorized to undertake by this charter or by the general laws of the State for cities or counties. The property tax levied throughout its jurisdiction may not be levied at an effective rate exceeding one dollar on the one hundred dollars of appraised valuation. The property tax levied within any urban service district for the support of purposes of the district may not be levied at an effective rate exceeding one dollar and fifty cents on the one hundred dollars of appraised valuation.

These limitations do not apply to property taxes levied (a) for debt service on general obligation bonds and notes of the Durham government, (b) for the support of the public schools or (c) pursuant to a special vote of the people.

The Durham government is subject to these limitations only and not to any imposed on counties or cities by the general laws of the State.

“Sec. 7-4. *Privilege license taxation.*—The Durham government may levy throughout Durham County privilege license taxes as authorized for counties under the general law of the State. The Durham government may levy within any urban service district privilege license taxes as authorized for cities and towns under the general law of the State.

“Sec. 7-5. *Dog taxes.*—The Durham government may levy throughout Durham County the dog tax authorized for counties by general law. It may not levy the dog tax authorized for cities in G.S. 160A-212.

“Sec. 7-6. *CATV franchise tax.*—The Durham government may levy throughout Durham County the cable television franchise tax authorized by G.S. 160A-214.

“Sec. 7-7. *Motor vehicle license tax.*—The Durham government may levy the motor vehicle license tax authorized by G.S. 20-97.

“Sec. 7-8. *Taxicab license tax.*—The Durham government may levy within any urban service district the taxicab license tax authorized by G.S. 20-97.

“Sec. 7-9 through 7-11. Reserved.

“Article 2. Borrowing and Indebtedness.

“Sec. 7-12. *Authority to issue bonds.*—The Durham government may issue its general obligation or revenue bonds for any purpose for which either county or city governments in North Carolina are authorized to issue general obligation or revenue bonds under the general laws of the State.

“Sec. 7-13. *Procedure for issuing bonds.*—In issuing its general obligation and revenue bonds the Durham government is subject to the Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina. However, if a proposed bond issue is required by law to be submitted to and approved by the voters of the Durham government, and if the proceeds of the proposed bond issue are to be used in connection with a service, facility or function that is or, if the bond issue is approved, will be financed, provided or maintained only for one or more urban service districts, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire Durham government and by a majority of the total of those voting in all the affected or to be affected urban service districts.

“Sec. 7-14. *Debt limitations.*—(a) The Durham government may contract net indebtedness in the form of general obligations for water, sewerage, gas and electric purposes without limitation.

(b) The Durham government may contract net indebtedness in the form of general obligations for school purposes in any amount less than eight percent of the appraised valuation of taxable property in the county.

(c) For purposes other than those specified in paragraphs (a) and (b) of this section, the Durham government may contract net indebtedness in the form of general obligations in any amount less than eight percent of the appraised valuation of taxable property in the county.

(d) No other debt limitations applying to counties and cities in North Carolina apply to the Durham government.

“Sec. 7-15 through 7-18. Reserved.

“Article 3. Financing Services of the Durham Service District  
and of Urban Service Districts.

“Sec. 7-19. *Districts.*—The Durham Service District extends throughout Durham County. The Board of Government may define urban service districts under procedures of general law. It is the intent of this charter that the Board will define as an urban service district the total area included immediately before the effective date of this charter within the City of Durham. Other urban service districts may be defined later as provided by the general laws of the State.

“Sec. 7-20. *Provision of services and allocation of costs.*—All services, facilities and functions provided or maintained by the Durham government shall be provided or maintained for the Durham Service District, except for:

- (1) Any service, facility or function provided or maintained only for one or more urban service districts, and
- (2) Any service, facility or function provided or maintained to a greater extent for one or more urban service districts than for the entire county.

If any service, facility or function is provided or maintained only for one or more urban service districts, the costs of providing or maintaining the service, facility or function for each urban service district shall be allocated to that district. If a service, facility or function is provided or maintained for an urban service district to a greater extent than for the Durham Service District, the costs of providing or maintaining it at a higher level for the district shall be allocated to that district.

The costs of providing or maintaining for an urban service district a service, facility or function in addition to, or to a greater extent than, those provided for the Durham Service District include operating, maintenance and repair

expenses, capital improvement costs, and the appropriate share of debt service on bonds or notes issued to finance capital improvements associated with the service, facility or function.

The Board of Government shall determine an equitable basis for allocating the costs of administrative services of the Durham government among services, facilities and functions.

The budgets for the Durham Service District and for each urban service district, including the plan for providing services, allocating costs and raising necessary revenues, shall be prepared and adopted as provided in Article 7 of this chapter.

“Sec. 7-21 through 7-23. Reserved.

“Article 4. Allocation of Revenues.

“Sec. 7-24. *Revenues allocated to the Durham Service District.*—The following revenues shall be allocated to the Durham Service District:

(a) Excise stamp tax. Proceeds of the excise stamp tax on conveyances levied by Article 8E of Chapter 105 of the General Statutes of North Carolina.

(b) Privilege license tax. Proceeds of any privilege license taxes levied throughout Durham County as authorized in Section 7-4 above.

(c) Dog tax. Proceeds of any dog tax levied as authorized in Section 7-5 above, which may be used for any county-wide purpose.

(d) CATV franchise tax. Proceeds of any cable television tax levied as authorized in Section 7-6 above.

(e) Other. All revenues that are not otherwise explicitly allocated in this article.

“Sec. 7-25. *Revenues allocated to urban service districts.*—(a) Powell Bill distribution. State street-aid funds, appropriated from the State Highway Fund pursuant to G.S. 136-41.1 to -41.3, shall be allocated to each urban service district on the same basis as if each district were a city or town.

(b) Traffic penalties. Civil penalties collected for violations of urban service district traffic ordinances shall be allocated to the urban service district in which the violation occurred.

(c) Taxicab license tax. The proceeds from any taxicab license tax levied pursuant to G.S. 20-97 shall be allocated to the urban service district in which the taxicab has taxable situs.

(d) Privilege license taxes. The proceeds from any privilege license tax levied only in an urban service district shall be allocated to the district in which it is levied.

“Sec. 7-26. *Revenues to be allocated by the Board of Government.*—The following revenues are to be allocated among the Durham Service District and any urban service districts in the discretion of the Board of Government:

(a) Beer and wine crown tax receipts. The entire portion of the beer and wine crown tax returned to Durham County under the provisions of G.S. 105-113.86(p).

(b) Durham County sales tax. The entire portion of the Durham County sales tax receipts distributed to local governments in Durham County under the provisions of G.S. 105-472.

(c) ABC revenue. The entire profits distributed from ABC stores in Durham County.

(d) Franchise tax receipts. The share of the State franchise tax on public service companies levied under G.S. 105-116(a) and G.S. 105-120(d) that is due

the Durham government by reason of the sale of public service company commodities and services within any urban service district.

(e) Federal revenue sharing. The entire portion of all funds made available for local governments in Durham County under the State and Local Fiscal Assistance Act of 1972.

“Sec. 7-27. *Intangibles taxes for distribution.*—The intangibles tax proceeds distributed to Durham County under G.S. 105-213 shall be divided among the Durham Service District and any urban service districts as if the Durham Service District were a county and each urban service district were a city.

“Sec. 7-28. *Arrest fees.*—The arrest fee provided for in G.S. 7A-304(a)(1) shall be allocated between the Durham Service District and each urban service district in proportion to law enforcement expenditures in each district in the previous fiscal year.

“Sec. 7-29. *Fees and charges.*—All fees and charges imposed by the Durham government for a particular service, facility or function shall be allocated to the service district in which the service, facility or function is provided or maintained. If a particular service, facility or function is provided or maintained for the Durham Service District and to a greater extent for one or more urban service districts, the Board of Government shall determine the proportionate allocation of the fee or charge.

“Sec. 7-30 through 7-32. Reserved.

“Article 5. Local Improvements.

“Sec. 7-33. *Authority.*—The Durham government has the authority granted to counties and cities by the general laws of the State with respect to local improvements, including without limitation, grading, regrading, widening, paving and repaving public streets and alleys; constructing, reconstructing, and altering sidewalks, curbs, gutters and drains in the public streets and alleys; and laying or relaying sewer and water lines. The authority granted by this article is in addition to that granted by any other law.

“Sec. 7-34. *Alternative procedures for street, sidewalk and drainage improvements.*—The Board of Government, acting in accordance with all other procedures set forth in Article 10 of Chapter 160A of the General Statutes of North Carolina, may order the making of any street, drainage or sidewalk improvement and specially assess the cost thereof against benefited property without receiving a petition as specified in G.S. 160A-217(a).

In lieu of, or in addition to, providing for the payment of special assessments in annual installments as authorized in G.S. 160A-232, the Board may provide for payment in 12 or more monthly installments.

The Board may apportion special assessments as provided in G.S. 160A-236 without the consent of any property owners.

“Sec. 7-35. *Assessments for sidewalk repairs.*—If the Board of Government determines that the public interest requires repair of a sidewalk or of a driveway within the public right-of-way, the Board may order the making of the repair and assess all, or part, of the total cost against the property abutting the sidewalk or driveway repaired. At least 30 days before exercising this authority, the Board shall cause written notice to be given to the abutting property owner personally or by registered or certified mail to his address as shown on the tax records. The notice shall state that the property owner is required to make the repair at his own expense in conformity with the standards adopted by the Durham government, and that, if he fails to make the repair within 30 days

after notice is served, the Durham government thereupon may make the repair and assess the cost. If the Board finds that any sidewalk or driveway is in need of immediate repair, the Board may adopt a resolution setting out its finding and directing that the repair be made immediately and that the cost be assessed against the abutting property without prior notice to any property owner affected.

“Sec. 7-36. *Authority to require water and sewer laterals.*—If the Board of Government orders the making of a street or sidewalk improvement, it may also order each owner of a lot abutting the part of the street to be improved to connect his lot by means of laterals with water mains or sewer lines located in the street prior to the making of the street and sidewalk improvements. The Board shall cause written notice of the order to install laterals to be given to each owner of abutting property personally or by registered or certified mail to his address as shown on the tax records. If any owner fails to install laterals within 30 days after the notice is served, the Board may direct that the laterals be installed and assess the cost against the lot(s) served.

“Sec. 7-37. *Planting strip and driveway maintenance.*—It is the responsibility of the abutting property owner to maintain any property, including sidewalks and driveways, between the property line and the curb, pavement or traveled way of a street except that maintenance of drainage facilities, including open ditches, shall be the responsibility of the Durham government.

“Sec. 7-38 through 7-40. Reserved.

“Article 6. Special Financing Powers.

“Sec. 7-41. *Appropriations for museums, zoos and gardens.*—The Board of Government may make appropriations from non-property tax funds to non-profit associations or corporations to aid in the support of museums in which there are collections of art, painting, sculptures, historical and scientific exhibits and other works or exhibits for the cultural and educational benefit of the people of the county; to aid in the maintenance of a park, zoo, aviary, aquarium or other facility in which are kept animals, birds or fish; to support botanical gardens; and to aid in the support of dramatic and cultural activities for the benefit of the community. No appropriation may be made to any association or corporation whose programs or facilities are not open to the general public.

“Sec. 7-42 through 7-45. Reserved.

“Article 7. Budgeting and Fiscal Control.

“Sec. 7-46. *Application of general law.*—The Durham government is subject to the Local Government Finance Act, Chapter 159 of the General Statutes of North Carolina, except as modified in this Chapter.

“Sec. 7-47. *Preparation and adoption of budget.*—The Chief Administrative Officer is responsible for preparing the annual budget as provided in general law, except that he shall prepare the budget in separate parts: one for the Durham Service District (county-wide) and one for each urban service district. Each part as prepared by the Chief Administrative Officer and as adopted by the Board of Government shall be balanced.

The costs of providing each service, function or activity shall be allocated (a) to the part of the budget (Durham Service District or an urban service district) corresponding to the district in which the service, function or activity is to be provided or (b) in proportion to the extent to which each is to be provided in the event a higher level of some service, function or activity is to be provided in an urban service district than is to be provided county-wide.

Each urban service district is responsible for the financing of its appropriate share of debt service on all bonds issued by the Durham government and used to finance capital facilities associated with providing or maintaining services, facilities and functions for the urban service district in addition to or to a greater extent than those provided or maintained for the entire county.

Urban service district expenses shall be paid from special taxes levied within each urban service district or from other revenues allocated to each urban service district under the provisions of this charter.

“Chapter 8. General Provisions.

“Article 1. Claims Against the Government.

“Sec. 8-1. *Notice of claims.*—No action against the Durham government for damages of any character whatever, to either person or property, may be instituted against the Durham government unless the injured party, or his executors or administrators, has given written notice to the Durham government of the injury or damages at least sixty days in advance of the filing of the action. The notice shall state the date, time and place of the injury, the manner of its infliction, the names and addresses, if known, of any person involved, the character of the injury and the amount of damages claimed. This notice does not prevent any applicable statute of limitations from commencing to run at the date of the happening or infliction of the injury, or in any manner interfere with its running.

“Sec. 8-2. through Sec. 8-5. Reserved.

“Article 2. Eminent Domain.

“Sec. 8-6. *Powers and procedures.*—(a) The Durham government may exercise the power of eminent domain for any purpose that counties or cities may exercise the power under the general laws of the State at or after the effective date of this charter.

(b) The Durham government may exercise the power of eminent domain by any of the following procedures or by any other procedure available to cities and counties by general law:

- (1) Those set out in Article 11 of Chapter 160A of the General Statutes of North Carolina, or
- (2) Those set out in Article 2 of Chapter 40 of the General Statutes of North Carolina, or
- (3) Those set out in Article 9 of Chapter 136 of the General Statutes of North Carolina.

“Sec. 8-7 through Sec. 8-10. Reserved.

“Article 3. Special Powers.

“Sec. 8-11. *Special powers.*—In addition to having all the powers, duties, rights, privileges and immunities that counties and cities may exercise, the Durham government shall have the power:

(a) In addition to the powers granted in G.S. 160A-303, to enact ordinances authorizing the removal of abandoned or junked motor vehicles from private property without the written request or consent of the owner of the property on which the vehicle is located.

(b) To require, in accordance with the procedures of G.S. 160A-443, the owner of an unfit dwelling that can be repaired at a reasonable cost, within the time specified in the order, to repair, alter or improve the dwelling to render it fit for human habitation or to vacate, close or demolish the dwelling.

(c) To provide for the amortization and phasing out of non-conforming buildings and uses under reasonable terms and provisions, including a period of time, as seems just and proper to the Board of Government.

(d) To provide for the construction and installation of storerooms, restaurants, observation decks, heliports, offices and other facilities in and upon off-street parking facilities and water storage structures and tanks. The Durham government may lease these storerooms, restaurants, observation decks, heliports, offices and other facilities upon such terms and conditions as the Board of Government may prescribe.

“Sec. 8-12 through Sec. 8-13. Reserved.

“Article 4. Formation of Other Political Subdivisions.

“Sec. 8-14. *Procedure; Board of Government's consent.*—The Board of Government's consent must be obtained before any political subdivision, whether a municipal corporation, special district or other similar tax-levying or revenue-raising governmental agency, board, commission, authority or entity, may be established to operate within the jurisdiction of the Durham government. Any person petitioning a State, county or municipal governmental body for the creation of a political subdivision within the jurisdiction of the Durham government shall file with the Board a certified copy of the petition at the same time he files the petition with the other governmental body. If the Board fails to adopt a resolution either withholding or giving consent to the petition by its second regular meeting following receipt of the petition, it is deemed to have consented. If the Board withholds consent, the petition and other action taken on it by any other governmental body is of no effect, and no similar petition may be submitted until six months after the resolution withholding consent was adopted. If the Board consents, the petition shall be acted on according to the procedure established by law for the creation of the proposed political subdivision.

“Sec. 8-15 through Sec. 8-17. Reserved.

“Article 5. Changes in Form and Structure of Government.

“Sec. 8-18. *Authority to modify the form and structure of government.*—The voters of the Durham government may amend this charter to modify the form and structure of the Durham government with respect to matters specified under G.S. 160A-101 except that the size of the governing board may be changed to any number of members.

“Sec. 8-19. *Method of modifying the form and structure of government.*—Modification of the form and structure of the Durham government shall be made pursuant to the procedures set forth in Part 4 of Article 5 of Chapter 160A of the General Statutes of North Carolina except that no modification may become effective until approved by the voters in a referendum.

“Sec. 8-20 through Sec. 8-24. Reserved.

“Article 6. Intent and Severability.

“Sec. 8-25. *Intent and severability.*—The people residing within the area of the Durham government declare that by the adoption of this charter it is their intent to consolidate the governmental and corporate functions of the City of Durham and the County of Durham so that the consolidating governments may be operated as one governmental entity in the interest of efficient, economical, responsive and responsible democratic government. This charter shall continue in full force and effect even if any of its severable provisions not essential to this

objective is held unconstitutional or void, and each provision of this charter is severable from each other provision.

“Chapter 9. Prohibition of Discrimination.

“Article 1. Unlawful Practices.

“Sec. 9-1. *Declaration of policy.*—It is the policy of the Durham government to exercise its police powers to protect the safety and general welfare and to maintain the peace and dignity of Durham County by prohibiting discriminatory practices in employment, housing and places of public accommodation.

“Sec. 9-2. *Definitions.*—As used in this chapter:

(a) ‘Employer’ means any person who employs fifteen or more employees, but the term does not include any religious, fraternal, charitable or sectarian organization that is not funded in whole or in part by any local, State or federal appropriations.

(b) ‘Employment agency’ means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer.

(c) ‘Housing unit’ means any building or structure which is occupied as, or designed or intended for occupancy as, a permanent or temporary residency by one or more persons, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building or structure.

(d) ‘Labor organization’ means any organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours or other terms or conditions of employment.

(e) ‘Person’ means an association, partnership or corporation, as well as a natural person. The term ‘person’ as applied to partnerships or other associations includes their members and as applied to corporations includes their officers. It includes any broker, agent, salesman or other person acting in behalf of another in the sale, lease or rental of any housing unit.

(f) ‘Public accommodation’ means a business, accommodation, entertainment, refreshment, recreation, resort, amusement or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, advantages or accommodations are extended, offered, sold or otherwise made available to the public.

“Sec. 9-3. *Unlawful employment practices.*—It shall be an unlawful employment practice:

(a) For an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual directly or indirectly with respect to his compensation, terms, conditions, or privileges of employment, because of the individual’s race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

(b) For an employer to limit, segregate, or classify his employees, through a quota system or otherwise, that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of the individual’s race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement

plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

(c) For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate by denying or limiting through a quota system or otherwise, the employment or membership opportunity to any group or individual because of race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification, or to classify or refer for employment in accordance with his classification any individual on the basis of race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification, or to classify or refer for employment in accordance with his classification any individual on the basis of race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

(d) For a labor organization to exclude or to expel from its membership, or otherwise to discriminate by denying or limiting through a quota system or otherwise the employment or membership opportunity to any group or individual because of race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

(e) For a labor organization to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or affect adversely his wages or employment conditions because of the individual's race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification.

(f) For a labor organization to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(g) For any employer, labor organization, employers' association or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, national origin, age (except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement), political affiliation or any circumstances other than merit and qualification, in admission to, membership in, or with respect to terms, conditions of employment or training, placement or other benefits in any program established to provide apprenticeship or other training.

(h) For any employer, employment agency or labor organization to penalize or discriminate in any manner against any individual because he has opposed any practice forbidden by this chapter or because he has made a complaint, or testified or assisted in any manner in any investigation or proceeding under this chapter.

(i) For any employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by the employer or membership in or any classification or referral for employment by the labor organization, or relating to any classification or referral for employment by the employment agency, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, national origin or age, except that a notice or advertisement may indicate a preference, limitation or specification where discrimination based on religion, sex, national origin or age is a bona fide occupational qualification for employment.

(j) It shall not be an unlawful employment practice (1) for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining program to admit or employ any individual in any such program on the basis of his religion, sex, national origin or age where there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; (2) for a school, college, university or other institution of learning to hire and employ employees of a particular religion if the school, college, university or other institution of learning is directed toward the propagation of a particular religion; (3) for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that the differences are not the result of an intention to discriminate because of race, color, religion, sex, national origin or age; or (4) for an employer to give and to act upon the results of any professionally developed ability test provided that the test, its administration or action upon the results are not designed, intended or used to discriminate because of race, color, religion, sex, national origin or age.

This section shall not apply to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities.

(k) It shall be a defense to a charge of an unlawful employment practice under this chapter that the conduct complained of occurred pursuant to compliance with an affirmative action plan approved by a department of the United States or an order of any department or agency of the United States.

“Sec. 9-4. *Unlawful public accommodation practices.*—It shall be an unlawful public accommodation practice for any owner, lessee, proprietor, manager, agent or employee of a place of public accommodation:

(a) To withhold from or deny to an individual any of the services, advantages, facilities or privileges offered by the public accommodation because of the individual's race, color, religion, sex or national origin, provided that the right to individual and/or group privacy based on sex is not invaded.

(b) To communicate, advertise or represent that any services, advantages, facilities, or privileges offered by the place of public accommodation will be

refused, withheld, or denied to any individual on account of his race, color, religion, sex or national origin.

“Sec. 9-5. *Unlawful housing practices.*—It shall be an unlawful housing practice for any person:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a housing unit to any individual because of race, color, religion, sex or national origin.

(b) To discriminate against any individual in the terms, conditions, or privileges of sale or rental of a housing unit, or before or after sale, lease or rental, in the provision of services, facilities, or privileges in connection with the housing unit because of race, color, religion, sex or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a housing unit that indicates any preference, limitation or discrimination based on race, color, religion, sex or national origin, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any individual because of race, color, religion, sex or national origin that any housing unit is not available for inspection, sale or rental when the housing unit is in fact available.

(e) For profit, to induce or attempt to induce any individual to sell or rent any housing unit by representations regarding the entry or prospective entry into the neighborhood of an individual or individuals of a particular race, color, religion, sex or national origin.

(f) For any bank, building and loan association, insurance company or other enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to an individual applying for financial assistance for the purpose of purchasing, constructing, improving, repairing or maintaining a housing unit, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of the loan or other financial assistance because of the race, color, religion, sex or national origin of the individual or of any individuals associated with him in connection with the loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the housing unit in relation to which the loan or other financial assistance is to be made or given.

(g) For any person engaged in the business of selling insurance with respect to housing units to discriminate against any individual in the price, terms or conditions of insurance because of his race, color, religion, sex or national origin.

(h) To deny any individual access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing units, or to discriminate against him in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex or national origin.

Nothing in this section shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of housing units which it owns or operates for other than a commercial purpose to persons of the same

religion, or from giving preference to such persons, unless membership in the religion is restricted on account of race, color, sex or national origin.

This section shall not apply to (1) any single-family house sold or rented by an owner if the private individual owner does not own more than three single-family houses at any one time, the house is sold or rented without the use in any manner of the sales or rental facilities or services of a real estate broker, agent or salesman, or the sales or rental facilities or services of any person in the business of selling or renting housing units, and the house is sold or rented without the publication or mailing of an advertisement in violation of Section 9-5(c) above, except that in the case of the sale of a single-family house by a private individual owner who was not the most recent resident of the house prior to its sale, the exemption granted by this paragraph applies only to one such sale within any twenty-four month period; (2) rooms or units in housing units containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence; or (3) the rooming placement of students by private and public institutions of higher education.

“Sec. 9-6. *Time limitation on bringing charge.*—Any charge of an unlawful practice under this chapter must be filed with the Durham Human Relations Commission within 180 days from the date of the alleged discriminatory action.

“Article 2. Durham Human Relations Commission.

“Sec. 9-7. *Commission established; membership; organization.*—Within six months after the establishment of the Durham government, the Board of Government shall establish the Durham Human Relations Commission to replace the previously existing Human Relations Commission of the City of Durham.

(a) The Durham Human Relations Commission shall be composed of seventeen members appointed by the Board of Government to four-year staggered terms. The Board shall appoint one member from each of the sixteen electoral districts and a chairman at large.

(b) The Mayor shall nominate at least three persons for appointment as chairman. Each member of the Board of Government shall nominate at least three persons who reside in the electoral district from which the Board member is elected for appointment as the Commission member from that district.

(c) The Board shall appoint one of the persons nominated by the Mayor as the chairman of the Commission. The Board shall appoint one of the persons nominated by each Board member as the Commission member from the Board member's district.

The membership of the Durham Human Relations Commission shall consist of no more than ten persons of the same race and no more than ten persons of the same sex.

Initially the chairman and members appointed from Districts 1, 3, 5, 7, 9, 11, 13 and 15 shall be appointed to two-year terms; and members appointed from Districts 2, 4, 6, 8, 10, 12, 14 and 16 shall be appointed to four-year terms. Thereafter, all terms are four years.

(d) The Chairman shall select four hearing panels of four persons each from the Commission. Three of the hearing panels shall be designated to consider and hear complaints arising under Sections 9-3, 9-4, and 9-5 of this charter respectively. The fourth panel may consider and hear any other complaints or complaints arising under more than one section of the charter. The Chairman

shall designate which hearing panel is to consider and hear each complaint or charge.

The Commission, by a majority vote of the full membership, shall adopt rules and regulations with respect to the operations of the hearing panels and not inconsistent with the provisions of this chapter. The rules shall provide for the terms of members on the hearing panels, for any rotation of members deemed desirable by the Commission, for the selection and term of the chairman of the hearing panels, and for any other matters in the discretion of the Commission.

“Sec. 9-8. *Meetings*.—The Commission shall fix the time, day and place of its regular meetings and shall hold at least one regular meeting each month. The Chairman, or in his absence the Vice-Chairman or, in the absence of both, the Director, may call a special meeting of the Commission. The person calling a special meeting shall, at least twelve hours in advance of the meeting, cause notice of the meeting to be given to each member of the Commission.

The Chairman, or in his absence the Vice-Chairman or, in the absence of both, the Director, may call a meeting to deal with an emergency. The notice provisions for special meetings do not apply to emergency meetings. The Commission shall establish procedures for calling an emergency meeting.

The Commission shall not take any action concerning a complaint of an unlawful practice under this chapter at an emergency meeting, or at a special meeting unless notice of the meeting has been given to each member of the Commission at least seven days before the meeting.

“Sec. 9-9. *Powers and duties*.—In order to carry out the general intent and purpose of this charter, the Durham Human Relations Commission shall have the following powers and duties:

(a) To receive, investigate, mediate, conciliate and resolve complaints of unlawful practices brought under this chapter.

(b) To take all actions authorized under Section 5-13 of this charter.

(c) To develop an atmosphere conducive to the best possible human relations, to conduct studies, suggest areas of concern and recommend any action to the Board of Government that the Commission feels is necessary and may be lawfully taken to minimize areas of conflict and to promote harmonious relations.

(d) To provide open channels of useful communication among the various racial, religious, ethnic and economic groups in Durham County, and between those groups and the Board of Government so that misunderstandings and wide differences leading to conflict may be ameliorated.

(e) To do research, obtain factual data, hold meetings with citizens and consider and recommend the best and fairest means of progressively improving human relations among all citizens of Durham County.

(f) To institute and conduct educational programs that promote fairness and courtesy in dealing with people of all racial, religious, ethnic, and economic backgrounds and status and that promote equal treatment, equal opportunity and mutual understanding and respect for all citizens; and to sponsor meetings, forums and courses of instruction intended to lead to a clearer understanding by all citizens of the true meaning of responsible citizenship in the community and of the obligations inherent in being a good citizen; all with the end in view that the programs should contribute in a helpful way to the elimination of hatred and bitterness by people of different racial, religious, ethnic or economic status

toward each other and to the reaching of a fair and just solution of problems in human relations.

(g) To render an annual written report of its work to the Board of Government. The Commission may make recommendations to the Board and propose legislation that the Commission considers desirable.

“Sec. 9-10. *Director of Durham Human Relations Commission.*—The Chief Administrative Officer shall appoint a Director of Human Relations who shall be an employee of the Durham government. The Chief Administrative Officer shall consult with the Commission prior to making the appointment of a Director and may not appoint any person whose appointment is opposed by a resolution adopted by an affirmative vote of at least eight members of the Commission.

“Sec. 9-11. *Duties and powers.*—The Director shall provide clerical assistance and research support to the Commission, conduct the initial investigation of a complaint brought under Article 3 and shall perform any other duties the Commission directs. The Director shall be a person who supports the amelioration of conflicts and tensions among racial, ethnic or economic groups and equal rights, responsibilities and privileges of all citizens of the Durham government. The Director shall work closely with the Commission in planning, promoting, coordinating and operating programs relating to human relations in Durham County. He shall attend official meetings of the Commission and may participate in those meetings, but shall have no vote. He shall maintain liaison with a wide variety of groups, organizations and individuals of the community, as well as between the Commission and the Board of Government and other governmental departments and agencies. He shall be directly responsible for efficient, effective and dependable communications being established and maintained between the various groups and the Durham government.

“Sec. 9-12 through 9-13. Reserved.

“Article 3. Procedures for Hearing Complaints.

“Sec. 9-14. *Filing of complaint.*—Any person claiming to be aggrieved by an unlawful practice as set forth in Article 1 of this chapter may file a signed, sworn complaint with the Commission. The complaint shall state the name and address of the person alleged to have committed the unlawful practice, a description of the nature, time and place of the alleged unlawful practice and any other information required by the Commission. The complaint shall not be made public by the Commission. Within ten days after receipt of a complaint, the Commission shall cause a copy to be served upon the person alleged to have committed the unlawful practice, hereinafter designated respondent.

“Sec. 9-15. *Investigation of the complaint; Director.*—After the Commission has caused a copy of the complaint to be served upon the respondent, the Director of the Commission or any staff member he designates shall outline to the respondent his rights and the procedures available under this Article. The Director or his designee shall then investigate the complaint of the alleged unlawful practice as promptly as possible and within 30 days.

“Sec. 9-16. *Dismissal of complaint; Director.*—If the Director, after his investigation, determines that there is no probable cause to believe that an unlawful practice has occurred, he shall give the complainant written notice of his findings. The complaint shall be dismissed unless the complainant requests a review by the appropriate hearing panel of the Commission within ten days after receipt of the Director's findings. A request for review of a finding of no

probable cause by the Director shall be filed by the complainant with the Chairman of the Commission.

“Sec. 9-17. *Mediation and conciliation; Director.*—If the Director determines in his investigation of a complaint that there is probable cause to believe that an unlawful practice has occurred, the Director shall endeavor to eliminate the unlawful practice by informal methods of conference, mediation and conciliation.

The Director shall not make public any complaint, investigation, or mediation or conciliation efforts.

“Sec. 9-18. *Hearing on complaint dismissed by Director.*—Within ten days after receipt from a complainant of a request for a review of a finding of no probable cause by the Director, the Chairman shall convene the appropriate hearing panel of the Commission. The Chairman shall cause notice of the review hearing to be given to the complainant and the respondent at least seven days prior to the date of the review hearing. The hearing panel shall provide an opportunity for the complainant or his attorney to appear before the panel and present any additional evidence to support the allegations in the complaint. The hearing panel shall also provide an opportunity for the person alleged to have committed the unlawful practice to be represented by counsel and to be heard.

If the hearing panel finds no probable cause, the complaint shall be dismissed and there shall be no further review of the decision.

If the hearing panel finds that there is probable cause to believe that an unlawful practice has occurred, the panel shall reinstate the complaint and direct the Director to endeavor to eliminate the unlawful practice by informal methods of conference, mediation and conciliation.

The hearing on a complaint dismissed by the Director shall not be public and shall be conducted informally.

“Sec. 9-19. *Mediation and conciliation; hearing panel.*—The Director, at any time during his attempt to eliminate the unlawful practice through informal methods, may request mediation and conciliation assistance from the appropriate hearing panel of the Commission. If the Director has failed in assisting the complainant and respondent to reach a conciliation agreement within sixty days after the filing of a complaint, he shall request assistance in mediation and conciliation from the appropriate hearing panel.

The panel shall offer its assistance promptly.

Meetings of hearing panels for the purposes authorized by this section shall be closed to the public and the members of the panels shall not make public any complaint, investigation, or mediation or conciliation efforts.

“Sec. 9-20. *Panel hearing on issuance of cease and desist order.*—If within 75 days after a complaint has been filed the complaint has neither been dismissed nor a conciliation agreement reached by the complainant and the respondent, the chairman of the appropriate hearing panel shall schedule a hearing that is open to the public to determine if the hearing panel should recommend to the Commission that a cease and desist order should be issued.

The chairman of the hearing panel shall set the date for the hearing and provide the complainant and the respondent with at least 14 days' notice of the date, time and place of the hearing. The notice shall also include a statement of the purpose of the hearing and the specific complaints or charges that will be heard.

At the hearing the complainant shall have the burden of persuasion. The complainant may be assisted by the Director and may be represented by counsel.

The respondent may be represented by counsel, may submit evidence, and may cross-examine witnesses.

The formal rules of evidence governing litigation in the courts shall not apply, but only reliable evidence may be admitted by the hearing panel.

The chairman of the hearing panel shall cause the hearing to be recorded verbatim.

Within 10 days after the hearing the panel shall summarize its findings of facts and reach a conclusion as to its recommendation on the issuance of a cease and desist order.

If it is the recommendation of the hearing panel that a cease and desist order should not be issued, the complaint shall be dismissed and there shall be no further review of the decision.

If it is the recommendation of the hearing panel that a cease and desist order should be issued by the Commission, the chairman of the hearing panel shall transmit the panel's findings of facts and recommendation to the Commission in writing. The chairman of the panel shall at the same time cause a copy of the panel's transmittal to the Commission to be delivered to the complainant and the respondent.

*“Sec. 9-21. Review of panel findings and recommendation of Commission; dismissal of issuance of cease and desist order.—*Within 30 days after receipt of the findings and recommendation of the hearing panel, the Commission shall review the findings and recommendation in a meeting that is open to the public. At least 10 days prior to this meeting, the Chairman of the Commission shall cause notice of the meeting to be given to the complainant and the respondent. Notice shall advise the complainant, the respondent and the Director that each will be given an opportunity to be heard at the meeting personally or by counsel. Except for good cause shown, no additional evidence may be admitted at the review meeting.

The Commission, after consideration of the record and the testimony of the complainant, the respondent and the Director, shall either approve the findings of facts as reported by the hearing panel or substitute its own findings.

If the Commission finds that no unlawful practice has occurred, it shall dismiss the complaint.

If the Commission finds that an unlawful practice has occurred, it shall issue an order requiring the respondent to cease and desist from the unlawful action.

*“Sec. 9-22. Information volunteered by respondent.—*No information voluntarily given by a respondent to the Commission regarding an alleged violation of this Chapter may be used against the respondent in a judicial proceeding without his consent.

*“Sec. 9-23. Authority of Commission to act on its own initiative.—*In the absence of the filing of a complaint as provided in Section 9-14, the Commission may on its own initiative direct an investigation of the activities of persons subject to this chapter when it has reason to believe that unlawful practices are found to exist, the Commission may seek to eliminate them by any means provided in this chapter for use in the case of the filing of a complaint. When acting on its own initiative, the Commission shall follow as closely as possible the procedures set forth in this Article with respect to action on complaints that have been filed by any person.

“Sec. 9-24. *Enforcement.*—In the event respondent refuses or fails to comply with any order of the Commission, the Commission shall transmit the entire record of its proceedings to the legal officer for the Durham government who shall file an action in the superior court for an enforcing order, serving respondent as provided by law. The Superior Court for the Fourteenth Judicial District shall have jurisdiction to issue an order enforcing the cease and desist order of the Commission, or modifying, or setting aside, in whole or in part, the order of the Commission.

“Sec. 9-25. *Criminal penalties.*—Any person who willfully violates any provision of this chapter relating to unlawful practices shall be guilty of a misdemeanor punishable as follows:

(a) For the first conviction of a violation, by a fine of not more than three hundred dollars (\$300.00).

(b) For a second and any subsequent violation, by a fine of not more than three hundred dollars (\$300.00), or imprisonment for a term not exceeding ninety (90) days, or both.

“Chapter 10. Continuation and Transition.

“Article 1. Continuation.

“Sec. 10-1. *Continuation of ordinances and regulations.*—All ordinances and resolutions of Durham County or the City of Durham that are in force immediately before the effective date of this charter and that are not inconsistent with this charter continue in full force and effect within the area in which they applied. They become ordinances and resolutions of the Durham government and shall continue in force until repealed or amended by the Board of Government. All orders, rules and regulations made by any officer, agency, board, commission or authority of Durham County or the City of Durham that are not inconsistent with this charter also continue in force within the area in which they applied until repealed or amended by the appropriate officer, agency, board, commission or authority of the Durham government.

“Sec. 10-2. *Continuation of hearings and proceedings.*—All petitions, hearings and other proceedings pending before any officer, office, department, agency, board, commission or authority of Durham County or the City of Durham continue in full force and effect, even if the officer, office, department, agency, board, commission or authority has been abolished or consolidated by this charter. The petition, hearing, or proceeding shall be completed by the officer, office, department, agency, board, commission or authority of the Durham government that succeeds to the powers, duties, rights, privileges and immunities of the abolished or consolidated agency.

“Sec. 10-3. *Transfer of assets and liabilities.*—On the effective date of this charter: (a) All property, real and personal and mixed, belonging to Durham County or the City of Durham vests in, belongs to and is the property of the Durham government.

(b) All judgments, liens, rights of liens and causes of action of any nature in favor of any of the governments listed in subsection (a) vest in and remain and inure to the benefit of the Durham government.

(c) All rentals, taxes, assessments and any other funds, charges or fees owing to any of the governments listed in subsection (a) are owed to and may be collected by the Durham government.

(d) Any action, suit, or proceeding pending against, or having been instituted by, any of the governments listed in subsection (a) is not abated by this charter

or by consolidation, but shall be continued and completed in the same manner as if consolidation had not occurred. The Durham government is a party to all these actions, suits and proceedings in the place of the merging government and shall pay or cause to be paid any judgment rendered against it in any of these actions, suits or proceedings. No new process need be served in any of the actions, suits or proceedings.

(e) All obligations of the governments listed in subsection (a), including outstanding indebtedness, are assumed by the Durham government, and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the Durham government. The full faith and credit of the Durham government is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the listed governments, and all the taxable property within the Durham government is and shall remain subject to taxation for these payments.

“Sec. 10-4. *Continuation of officers and employees.*—On the effective date of this charter, all officers and employees of the governments of Durham County and the City of Durham become officers and employees of the Durham government.

In providing for the continuation of the employment of each officer and employee of the consolidated governments, the Board of Government shall, to the extent that it is feasible to do so, arrange for each officer and employee to perform the same or similar duties and responsibilities in his employment with the Durham government that he performed prior to consolidation.

No officer or employee may sustain any reduction in salary on account of consolidation, nor may the Board impair or diminish the rights, benefits, privileges or opportunities of any officer or employee of the consolidated governments under any retirement or pension plan in effect immediately before the effective date of this charter.

No former officer or employee of the governments of Durham County or the City of Durham has promotion rights, benefits, privileges or opportunities solely by virtue of the personnel policies of that government. The promotion rights, benefits, privileges and opportunities of any employee of the Durham government are subject to the personnel policies adopted by or approved by the Board.

The Board shall resolve all questions, issues and interpretations arising under this section.

“Sec. 10-5. *Continuation of offices.*—All offices, departments, committees, agencies, boards, commissions and authorities, however denominated, heretofore created pursuant to general law or special acts of the General Assembly, or by resolutions or ordinances of the City Council of Durham or the Durham Board of County Commissioners, or by joint resolutions of these two governing bodies are continued with the same duties, functions and responsibilities except as expressly provided by this charter or other acts of the General Assembly.

“Sec. 10-6. *Members, officers and employees of boards and agencies.*—Except as otherwise provided in this charter, the members, officers and employees of all agencies, boards, commissions and authorities continue as members, officers and employees of those agencies, boards, commissions and authorities and shall continue to perform the duties and enjoy the powers, rights, privileges and immunities they possessed immediately prior to the effective date of this

charter. Nothing in this section impairs the authority of the Durham government with respect to those boards, commissions, authorities and agencies or to any of their members, officers or employees.

“Article 2. Transition.

“Sec. 10-7. *Effective date.*—The Government of Durham and Durham County becomes effective December 1, 1975.

“Sec. 10-8. *1975 City elections not held.*—The municipal elections to be held in 1975 pursuant to G.S. 163-279 shall not be held in the City of Durham. The terms of office of the Mayor of Durham, all members of the Durham City Council and all members of the Board of County Commissioners of Durham County, are terminated when their successors take office as provided in Section 10-10 of this charter.

“Sec. 10-9. *Initial elections.*—The initial primary for the Mayor and members of the Board of Government shall be held on October 7, 1975, and the initial election for the Mayor and the members of the Board of Government shall be held on November 4, 1975, as provided in Chapter 4 of this charter.

Members of the Board elected in the initial elections from Districts 1, 3, 5, 7, 9, 11, 13 and 15 and the Mayor shall serve terms of two years. Members of the Board elected in the initial elections from Districts 2, 4, 6, 8, 10, 12, 14 and 16 shall serve terms of four years. After the initial elections, all elections of Board members shall be for terms of four years as provided in Section 2-2 of this charter and all elections of the Mayor shall be for terms of two years as provided in Section 3-1 of this charter.

“Sec. 10-10. *Initial organization meeting.*—The Mayor and members of the Board of Government elected in the initial election shall meet at noon on Monday, December 1, 1975, in the Commissioner’s room of the Durham County Office Building to take oaths of office and hold the initial organizational meeting for the purposes set forth in Section 2-11 of this charter. The Mayor-elect shall arrange for the oaths to be administered.

“Sec. 10-11. *Transitional budgets for 1975-76.*—The Board of Government and officers of the Durham government shall administer the 1975-76 budgets as adopted by Durham County and the City of Durham in accordance with their terms for the remainder of the 1975-76 fiscal year following the establishment of the Durham government. The Board may, however, amend the 1975-76 budget of each merging government as adopted by the government in any manner and for any purpose for which an amendment could have been made by the governing body of the merging government in the absence of consolidation.

“Sec. 10-12. *Cooperation in transition.*—After this charter is approved by the voters and until the establishment of the new government, officers and employees of Durham County, the City of Durham and all agencies, boards and commissions thereof shall cooperate with each other in taking all appropriate steps to the end that the transition to the Durham government will be orderly and without disruption or impairment of regular governmental services and functions. Durham County and the City of Durham by action of their respective governing boards are authorized to establish special committees to plan and implement transitional steps, employ consultants or other personnel to assist in arranging for the transition, and take any other action the boards deem necessary to an orderly transition.

“Chapter 11. Electoral Districts.

“Article 1. Electoral Districts for the Board of Government.

“Sec. 11-1. *Definition.*—When used in this chapter, ‘Durham City Limit line’ means the Durham City Limit line as indicated on the 1970 Census Tract Maps, April 1, 1970.

“Sec. 11-2. *Districts described.*—The sixteen electoral districts provided for in Section 2-1 of this charter are initially defined as having these boundaries:

*DISTRICT ONE:* Beginning at the point where Duke Homestead Road intersects Reta Road, southeast and east on Reta Road to Duke Street; south along Duke Street to Frasier Street; east along Frasier Street to the Durham City Limit line; southeast, northeast and east along the Durham City Limit line to its junction with the Norfolk and Western Railway; south, southeast and south along the Durham City Limit line to U. S. Highway 15 (I-85); west along U. S. Highway 15 (I-85) to West Club Boulevard; southwest and west along West Club Boulevard to Duke Street; north along Duke Street to Leon Street, west along Leon Street to Lednum Street, north along Lednum Street to Murray Avenue; west along Murray Avenue to Broad Street; north on a straight line from the intersection of Murray Avenue and Broad Street to a point 125 feet west of the junction of Shaftsbury and Homestead Streets; northwest from this point to the junction of Kenmore Street and Duke Homestead Road; northeast along Duke Homestead Road to Reta Road and the beginning.

*DISTRICT TWO:* Beginning at the intersection of Broad Street and Murray Avenue, east along Murray Avenue to Lednum Street; south along Lednum Street to Leon Street; east along Leon Street to Duke Street; south along Duke Street to West Club Boulevard; east and northeast along West Club Boulevard to U. S. Highway 15 (I-85); southeast and east along U. S. Highway 15 (I-85 and U. S. 70) to where U. S. Highway 70 and U. S. Highway 15 (I-85) diverge; southeast along U. S. Highway 70 to Geer Street; southwest and west along Geer Street to Foster Street; south along Foster Street to Chapel Hill Street; west along Chapel Hill Street to West Main Street; northwest along West Main Street to Duke Street; northeast along Duke Street to West Corporation Street; west from the junction of West Corporation and Duke Streets to the junction of Lamond Avenue and Gregson Street; southwest on Gregson Street to West Main Street; northwest along West Main Street to Buchanan Boulevard; north on Buchanan Boulevard to Monmouth Avenue; east along Monmouth Avenue to Watts Street; north along Watts Street to Guess Road; northwest along Guess Road to Berkeley Street; continuing west from the junction of Berkeley Street and Guess Road to the junction of Sprunt Avenue and Sedgfield Street; west on Sprunt Avenue to Clarendon Street; north on Clarendon Street to Guess Road; northwest along Guess Road to the junction of Sunset and Broad Streets; northeast along Broad Street to Murray Avenue and the beginning.

*DISTRICT THREE:* Beginning at the intersection of Geer and Elizabeth Streets, east and northeast on Geer Street to the junction of the Durham Oxford Highway and U. S. Highway 70; south and southeast along U. S. Highway 70 to the Southern Railway; southwest along the Southern Railway to Miami Boulevard; northwest along Miami Boulevard to Harvard Avenue; southwest along Harvard Avenue to Benjamine Street; north on Benjamine Street to East Main Street; west on East Main Street to Hyde Park Avenue; north along Hyde Park Avenue to Taylor Street; northwest along Taylor Street to North Alston Avenue; north on North Alston Avenue to Eva Street; west along Eva Street to

Elm Street; north on Elm Street to Holloway Street; west on Holloway Street to Elizabeth Street; north on Elizabeth Street to Geer Street and the beginning.

*DISTRICT FOUR:* Beginning at the intersection of Foster and Geer Streets, east along Geer Street to Elizabeth Street; south along Elizabeth Street to Holloway Street; east on Holloway Street to Elm Street; south along Elm Street to Eva Street; east along Eva Street to North Alston Avenue; south on North Alston Avenue to Taylor Street; southeast along Taylor Street to Hyde Park Avenue; south on Hyde Park Avenue to East Main Street; west and northwest along East Main Street to Alston Avenue; southwest along South Alston Avenue to Lawson Street; west along Lawson Street to Fayetteville Street; northeast along Fayetteville Street to the East-West Expressway, extending Fayetteville Street northeast to Rowland Street; northeast along Rowland Street to Ramseur Street; east on Ramseur Street to the Norfolk and Western Railway; northeast along the Norfolk and Western Railway to East Main Street; northwest along East Main Street to Dillard Street; northeast on Dillard Street to Holloway Street; northwest along Holloway Street to Morgan Street; north along Morgan Street to Chapel Hill Street; west on Chapel Hill Street to Foster Street; north along Foster Street to Geer Street and the beginning.

*DISTRICT FIVE:* Beginning at the intersection of Alston Avenue and East Main Street, southeast and east along East Main Street to Benjamine Street; south along Benjamine Street to Harvard Street; northeast along Harvard Street to Miami Boulevard; southeast along Miami Boulevard to U. S. Highway 70; southeast along U. S. Highway 70 to East End Avenue; south and southwest along East End Avenue to Rowena Avenue; south on Rowena Avenue to Carter Avenue; west along Carter Avenue to the Durham City Limit line; northwest, west and south along the Durham City Limit line to the Norfolk and Southern Railway; then west along the Durham City Limit line to State Highway 55 (Apex Road); northwest and north along State Highway 55 to South Alston Avenue; northeast along South Alston Avenue to East Main Street and the beginning.

*DISTRICT SIX:* Beginning at the junction of Archdale Drive and Cornwallis Road, southeast along Cornwallis Road to Weaver Street; northeast along Weaver Street, extending Weaver Street along a straight line to the junction of Weaver and Pilot Streets; southeast along Pilot Street to Fayetteville Street; northeast along Fayetteville Street to Lawson Street; east and southeast along Lawson Street to South Alston Avenue; south along South Alston Avenue to its junction with State Highway 55; south and southeast along State Highway 55 to the Durham City Limit line; east along the Durham City Limit line to South Alston Avenue; south along South Alston Avenue to the point where it crosses the Durham and Southern Railway; following the Durham and Southern Railway to Carpenter & Fletcher Road; west on Carpenter & Fletcher Road to State Highway 55; south along State Highway 55 to State Highway 54; west and northwest along State Highway 54 to Old Durham Apex Road; continuing northwest on a straight line from the intersection of Old Durham Apex Road and State Highway 54 to the junction of Fayetteville Road and Sunny Drive; west on Sunny Drive to the Norfolk Southern Railway; south along the Norfolk Southern Railway to State Highway 54; west and northwest on State Highway 54 to Third Fork Creek; following Third Fork Creek northeast to the point where it crosses the Durham

City Limit line that is parallel to Willowdale Drive; northwest along the Durham City Limit line, extending the Durham City Limit line to Archdale Drive; northeast along Archdale Drive to the junction of North Oak Ridge Boulevard and Willowdale Drive; north along North Oak Ridge Boulevard to Cisco Street; east along Cisco Street to Archdale Drive; north on Archdale Drive to Cornwallis Road and the beginning.

*DISTRICT SEVEN:* Beginning at the point where the Southern Railway crosses West Chapel Hill Street, east along West Chapel Hill Street to Morgan Street (the Morgan-Holloway Street Connector); south along Morgan Street (Morgan-Holloway Street Connector) to Holloway Street; southeast along Holloway Street to Dillard Street; southwest along Dillard Street to East Main Street; southeast on East Main Street to the Norfolk and Western Railway; southwest along the Norfolk and Western Railway to Ramseur Street; northwest on Ramseur Street to Rowland Street; southwest on Rowland Street to the East-West Expressway, extending Rowland Street southwest on a straight line to Fayetteville Street; southwest along Fayetteville Street to Pilot Street; northwest along Pilot Street to Weaver Street; continuing southwest from the junction of Weaver and Pilot Streets on a straight line to the junction of Weaver Street and Cornwallis Road; northwest along Cornwallis Road to Charles Street; northeast along Charles Street and southeast along Charles Street to South Roxboro Street; north and northeast along South Roxboro Street to the Norfolk Southern Railway; north and northeast along the Norfolk Southern Railway to North Service Road; northwest on North Service Road to Carr Street; northeast on Carr Street to the Southern Railway; northwest on the Southern Railway to Chapel Hill Street and the beginning.

*DISTRICT EIGHT:* Beginning at the intersection of Clarendon Street and Sprunt Avenue, east along Sprunt Avenue to Sedgfield Street; continuing east on a straight line from the junction of Sedgfield and Sprunt Streets to the intersection of Berkeley Street and Guess Road; southeast on Guess Road to Watts Street; south along Watts Street to Monmouth Avenue; west along Monmouth Avenue to Buchanan Boulevard; south along Buchanan Boulevard to West Main Street; southeast along West Main Street to Gregson Street; north and northeast along Gregson Street to Lamond Avenue; continuing east along a straight line from the junction of Gregson Street and Lamond Avenue to the junction of West Corporation and Duke Streets; southwest on Duke Street to West Main Street; southeast on West Main Street to West Chapel Hill Street; west on West Chapel Hill Street to the Southern Railway; southeast along the Southern Railway to Carr Street; southwest on Carr Street to North Service Road; southeast along North Service Road to the Norfolk Southern Railway; southwest along the Norfolk Southern Railway to University Drive; southwest on University Drive to Lakewood Avenue; west on Lakewood Avenue to Carroll Street; then southwest and west along Lakewood Avenue to the east right-of-way line of Kent Street; north along the east right-of-way line of Kent Street to Gunter Street; continuing east on a straight line from the junction of Gunter and Kent Streets to Cornell Street; northeast along Cornell Street to Halley Street; west on Halley Street to the west right-of-way line of Kent Street; south along the west right-of-way line of Kent Street to Lakewood Avenue; west on Lakewood Avenue to Chapel Hill Road; northeast on Chapel Hill Road to Maplewood Avenue; northeast along Maplewood Avenue from the junction of Chapel Hill Road and Maplewood Avenue for a distance of 625 feet,

to the Maplewood Cemetery line; then following Maplewood Cemetery line west, northeast and west again to a point on Maplewood Cemetery line immediately south of the junction of Swift Street and Duke University Road; continuing north from this point for a straight distance of 125 feet to the junction of Swift Street and Duke University Road; northeast along Swift Street to Campus Drive; east and northeast on Campus Drive to the Southern Railway; northwest along the Southern Railway to Broad Street; north on Broad Street to Markham Avenue; east along Markham Avenue to Clarendon Street; north along Clarendon Street to Sprunt Avenue and the beginning.

*DISTRICT NINE:* Beginning at the point where State Highway 751 crosses the Durham City Limit line at U. S. Highway 15-501 By-pass, southeast along State Highway 751 to Duke University Road; northeast along Duke University Road to Anderson Street; north on Anderson Street to Campus Drive; northeast and southeast along Campus Drive to Swift Avenue; south along Swift Avenue, extending Swift Avenue south for a straight distance of 125 feet from its junction with Duke University Road, to Maplewood Cemetery line; then following the Maplewood Cemetery line east, southwest and east again to Maplewood Avenue; southwest on Maplewood Avenue to its junction with Chapel Hill Road; southwest on Chapel Hill Road to Lakewood Avenue; east on Lakewood Avenue to the west right-of-way line of Kent Street; north along the west right-of-way line of Kent Street to Halley Street; east on Halley Street to Cornell Street; southwest on Cornell Street to a point 500 feet from the intersection of Cornell and Halley Streets; continuing west on a straight line from the preceding point to the east right-of-way line of Kent Street; south along the east right-of-way line of Kent Street to Lakewood Avenue; east along Lakewood Avenue, then northeast and east again along Lakewood Avenue to the Norfolk Southern Railway; south along the Norfolk Southern Railway to South Roxboro Street; southwest and south along South Roxboro Street to Charles Street; northwest and southwest along Charles Street to Cornwallis Road; northwest on Cornwallis Road to University Drive; southwest along University Drive to Hope Valley Road; south along Hope Valley Road to Bexley Avenue; west on Bexley Avenue to Stanford Drive; south on Stanford Drive to Kamis Street; west on Kamis Street to Ithaca Street; south along Ithaca Street to Princeton Avenue; west on Princeton Avenue to Dixon Road; continuing due west on a straight line from the junction of Princeton Avenue and Dixon Road to Chapel Hill Road; south and southwest on Chapel Hill Road to its junction with the Durham City Limit line, southwest of where Windsor Way and Chapel Hill Road meet; then following the Durham City Limit line northwest and northeast to the intersection of Cornwallis Road and U. S. Highway 15-501; then north along the Durham City Limit line to the point where it crosses State Highway 751 and the beginning.

*DISTRICT TEN:* Beginning at the point where the Durham City Limit line crosses the junction of Moreene and Neal Roads, east along Neal Road to the Southern Railway; southeast along the Southern Railway to Campus Drive; southwest, northwest and southwest again on Campus Drive to Anderson Street; south on Anderson Street to Duke University Road; southwest on Duke University Road to State Highway 751; northwest on State Highway 751 to U. S. Highway 15-501 (Durham City Limit line); northeast along U. S. Highway 15-501 (Durham City Limit line) to the point where the Durham City Limit line and U. S. Highway 15-501 diverge, immediately south of the intersection of

U. S. Highway 15-501 and Moreene Road; northwest, north, east and north along the Durham City Limit line to the point where it crosses the junction of Moreene and Neal Roads and the beginning.

*DISTRICT ELEVEN:* Beginning at the intersection of Carver Street Extension and Rose of Sharon Road, east and southeast on Carver Street Extension to the point where Browning Road meets the Durham City Limit line; east, north and east along the Durham City Limit line, then north (parallel to Guess Road) and east (parallel to Horton Road) along the Durham City Limit line to Jump and Run Creek; south along Jump and Run Creek to Horton Road; continuing southeast from the point where Jump and Run Creek crosses Horton Road for a straight distance of 5,750 feet to Shaftsbury Street; continuing southeast on Shaftsbury Street to Duke Homestead Road; southwest on Duke Homestead Road to Kenmore Street; southeast on a straight line from the junction of Kenmore Street and Duke Homestead Road to Homestead Street at a point 250 feet west of the junction of Homestead and Shaftsbury Streets; continuing south on a straight line from Homestead Street to the junction of Broad Street and Murray Avenue; southwest on Broad Street to Guess Road; southeast on Guess Road to Clarendon Street; south on Clarendon Street to Markham Avenue; west on Markham Avenue to Broad Street; south on Broad Street to the Southern Railway; northwest on the Southern Railway to Neal Road; west on Neal Road to the point where it crosses the Durham City Limit line; northwest, northeast and southeast along the Durham City Limit line to Cole Mill Road; north and northwest along Cole Mill Road to Rose of Sharon Road; north on Rose of Sharon Road to Carver Street Extension and the beginning.

*DISTRICT TWELVE:* Beginning at the point where Rigsbee Road crosses the Orange-Durham County line, northeast along Rigsbee Road to Randolph Road; continuing southeast along Randolph Road to a point 1250 feet from the junction of Rigsbee and Randolph Roads; continuing southeast from the preceding point for a straight distance of 3000 feet to a point on Mud Creek that is 625 feet north of Pickett Road; south along Mud Creek to Pickett Road; east along Pickett Road to the Durham City Limit line; continuing southwest and southeast along the Durham City Limit line to the point where it crosses Chapel Hill Road, southwest of the junction of Chapel Hill Road and Windsor Way; northeast and north along Chapel Hill Road to a point on Chapel Hill Road 1375 feet north of its junction with Eubanks Road; continuing due east on a line projected from the preceding point, for a straight distance of 2125 feet, to Princeton Avenue; east on Princeton Avenue to Ithaca Street; north on Ithaca Street to Kamis Street; east on Kamis Street to Stanford Drive; north on Stanford Drive to Bexley Avenue; east on Bexley Avenue to Hope Valley Road; north along Hope Valley Road to University Drive; northeast on University Drive to Cornwallis Road; southeast on Cornwallis Road to Archdale Drive; south on Archdale Drive to Cisco Street; west on Cisco Street to North Oak Ridge Boulevard; south on North Oak Ridge Boulevard to Archdale Drive; southwest on Archdale Drive to the Durham City Limit line; southeast along the Durham City Limit line to Third Fork Creek; southwest along Third Fork Creek to State Highway 54; southeast on State Highway 54 to the Norfolk Southern Railway; north along the Norfolk Southern Railway to Sunny Drive; east on Sunny Drive to Fayetteville Road; continuing southeast from the junction of Fayetteville Road and Sunny Drive for a straight distance of 5,750

feet to the intersection of Old Durham Apex Road and State Highway 54; southeast and east on State Highway 54 to Northeast Creek; south and southwest along Northeast Creek to the point where it crosses the Durham-Chatham County line; west along the Durham-Chatham County line to the Orange-Durham County line; northeast along the Orange-Durham County line to Rigsbee Road and the beginning.

*DISTRICT THIRTEEN:* Beginning at the point where the Orange-Durham County line intersects the Person-Durham County line, east along the Person-Durham County line to the Durham-Granville County line; south along the Durham-Granville County line to the point where it crosses the Neuse River; west and southwest along the Neuse River to its junction with the Eno River and Little River; west along the Eno River to its junction with Crooked Creek at a point 875 feet southwest of the point where U. S. Highway 501 crosses the Eno River; southwest along the Eno River-Crooked Creek to the point where the Eno River and Crooked Creek diverge; continuing west along the Eno River for a distance of 2,125 feet; continuing southwest from that point for a straight distance of 2000 feet to Prison Camp Road; west and southwest on Prison Camp Road to Guess Road; southeast on Guess Road to Hillandale Road; southwest and northwest on Hillandale Road to Rose of Sharon Road; southwest and south along Rose of Sharon Road to Valley Spring Road; northwest along Valley Spring Road to Rivermont Road; west, northwest and southwest along Rivermont Road to Cole Mill Road; northwest along Cole Mill Road to Sparger Road; southwest on Sparger Road to its junction with Beech Grove Drive; then projecting a straight line southwest from this junction for a distance of 875 feet to the Orange-Durham County line; northeast along the Orange-Durham County line to the Person-Durham county line and the beginning.

*DISTRICT FOURTEEN:* Beginning at the point where the Norfolk and Western Railway crosses the Eno River, following the Eno River southeast and northeast to its junction with the Little River and Neuse River; following the Neuse River northeast to the point where it meets the Durham-Granville County line; continuing southeast along the Durham-Granville County line (Neuse River) to the point where the Durham-Granville County line and the Neuse River diverge; continuing east along the Durham-Granville County line to its junction with the Durham-Wake County line; southwest along the Durham-Wake County line for a distance of 6,625 feet to the point where the Durham-Wake County line and the Neuse River converge; continuing southwest from the preceding point for a straight distance of 29,750 feet to the junction of Shaw Road and State Highway 98 (Wake Forest Highway); northwest along State Highway 98 (Wake Forest Highway) to Sherron Road; southwest along Sherron Road to Old Sherron Road; west and northwest along Old Sherron to Mineral Springs Road; northeast along Mineral Springs Road to Gibson Road; west on Gibson Road to Lynn Road; northeast and northwest along Lynn Road to Holloway Street; northwest along Holloway Street to U. S. Highway 70; northwest along U. S. Highway 70 to U. S. Highway 15 (I-85); northeast on U. S. Highway 15 (I-85) to the Durham City Limit line; northwest, northeast and northwest along the Durham City Limit line to its junction with the Norfolk and Western Railway; northeast along the Norfolk and Western Railway to the point where it crosses the Eno River and the beginning.

*DISTRICT FIFTEEN:* Beginning at the point where Holloway Street intersects U. S. Highway 70, southeast on Holloway Street to Lynn Road; southeast and southwest along Lynn Road to Gibson Road; east on Gibson Road to Mineral Springs Road; southwest along Mineral Springs Road to Old Sherron Road; east and southeast on Old Sherron Road to Sherron Road; northeast on Sherron Road; east to State Highway 98 (Wake Forest Highway); southeast on State Highway 98 (Wake Forest Highway) to its junction with Shaw Road; continuing northeast on a line projected from the junction of State Highway 98 (Wake Forest Highway) and Shaw Road for a straight distance of 29,750 feet to the junction of the Neuse River and the Durham-Wake County line; southeast, northeast and southeast again along the Durham-Wake County line (Neuse River) to the point where the Neuse River diverges; then, southwest, northwest, southwest again, and west along the Durham-Wake County line to its junction with the Durham-Chatham County line and Northeast Creek; northeast and north along Northeast Creek to State Highway 54; east along State Highway 54 to State Highway 55; northeast on State Highway 55 to Carpenter & Fletcher Road; east on Carpenter & Fletcher Road to the Durham and Southern Railway; northeast along the Durham and Southern Railway to its junction with South Alston Avenue; north along South Alston Avenue to the Durham City Limit line; east, northwest, northeast and southeast along the Durham City Limit line to Carter Avenue; east on Carter Avenue to Rowena Avenue; northwest on Rowena Avenue to East End Avenue; northeast on East End Avenue to U. S. Highway 70 (Miami Boulevard); northwest on U. S. Highway 70 (Miami Boulevard) to the Southern Railway-Seaboard Airline Railroad; northeast along the Southern Railway-Seaboard Airline Railroad to U. S. Highway 70; northwest on U. S. Highway 70 to Holloway Street and the beginning.

*DISTRICT SIXTEEN:* Beginning at a point on the Orange-Durham County line 2500 feet southwest of its crossing with the Eno River, proceeding northeast from this point for a straight distance of 875 feet to the junction of Sparger Road and Beech Grove Drive; northeast on Sparger Road to Cole Mill Road; southeast along Cole Mill Road to Rivermont Road; northeast and southeast on Rivermont Road to Valley Spring Road; south on Valley Spring Road to Rose of Sharon Road; northeast on Rose of Sharon Road to Hillandale Road; southeast and northeast on Hillandale Road to Guess Road; northwest on Guess Road to Prison Camp Road; continuing northeast on Prison Camp Road for a distance of 1,937 feet, then projecting a straight line northeast from Prison Camp Road for a distance of 2,000 feet to the Eno River; following the Eno River east to the Norfolk and Western Railway; southwest along the Norfolk and Western Railway to the Durham City Limit line; following the Durham City Limit line west, southwest and northwest to Frasier Street; west along Frasier Street to Duke Street; north on Duke Street to Reta Road; west and northwest on Reta Road to Duke Homestead Road; southwest on Duke Homestead Road to Shaftsbury Street; northwest along Shaftsbury Street, extending Shaftsbury Street northwest for a straight distance of 5,750 feet to the point where Horton Road crosses Jump and Run Creek, north along Jump and Run Creek to the point where it meets the Durham City Limit line; west along the Durham City Limit line (parallel to Horton Road), south along the Durham City Limit line (parallel to Guess Road), then west and south again along the Durham City Limit line to the point where it meets Carver Street

Extension; west and northwest along Carver Street Extension to Rose of Sharon Road; south on Rose of Sharon Road to Cole Mill Road; southeast and southwest on Cole Mill Road to its junction with the Durham City Limit line and Croasdale Drive; northwest, southeast, and south along the Durham City Limit line to the point where it crosses Pickett Road; west on Pickett Road to the point where it crosses Mud Creek; following Mud Creek north for a distance of 625 feet; continuing northwest from the preceding point for a straight distance of 3,000 feet to Randolph Road; northwest on Randolph Road to Rigsbee Road; southwest on Rigsbee Road to the Orange-Durham County line; northeast along the Orange-Durham County line to a point 2,500 feet southwest of the point where the Eno River crosses the Orange-Durham County line and the beginning.”

**Sec. 2.** The following acts, having served the purposes for which they were enacted, being obsolete, being inconsistent with the charter of the Durham Government or having been incorporated into the charter are repealed:

1973, Session Laws: Chs. 399, 401, 403, 405, 406, 407,  
408, 409, 410, 411, 430, 703.

1971, Session Laws: Chs. 506, 786, 852, 859.

1969, Session Laws: Chs. 483, 503, 596, 597, 654, 657,  
703.

1967, Session Laws: Chs. 440, 506, 803.

1965, Session Laws: Chs. 527, 528, 550, 571, 614, 797.

1963, Session Laws: Chs. 583, 647, 737, 744, 1153.

1961, Session Laws: Chs. 618, 796, 820, 869.

1959, Session Laws: Chs. 534, 696, 867.

1957, Session Laws: Chs. 167, 194, 658, 659, 734, 745,  
1097, 1099, 1315, 1337.

1955, Session Laws: Chs. 172, 364, 367, 953, 1025, 1091.

1953, Session Laws: Chs. 238, 800, 1128, 1280.

1951, Session Laws: Chs. 22, 506, 596, 917.

1949, Session Laws: Chs. 36, 833, 834, 855, 875, 905,  
924, 995, 1043, 1277.

1947, Session Laws: Chs. 96, 106, 341, 425, 779, 797,  
871, 908, 961.

1945, Session Laws: Chs. 252, 262.

1943, Session Laws: Chs. 118, 323, 464, 577.

1941, Public-Local Laws: Chs. 138, 252.

1939, Public-Local Laws: Chs. 117, 181, 591.

1937, Public Laws: Chs. 211, 299.

1937, Public-Local Laws: Chs. 275, 448, 469, 504.

1935, Public Laws: Ch. 224.

1935, Public-Local Laws: Chs. 99, 196, 542, 566.

1935, Private Laws: Ch. 61.

1933, Public-Local Laws: Ch. 199.

1933, Private Laws: Chs. 15, 23, 199.

1931, Public-Local Laws: Chs. 124, 128, 286.

1931, Private Laws: Ch. 91.

1929, Public-Local Laws: Chs. 8, 220.

1929, Private Laws: Ch. 63.

1927, Public-Local Laws: Chs. 265, 557, 619, 629, 667.

- 1927, Private Laws: Chs. 12, 115.
- 1925, Public-Local Laws: Chs. 213, 257, 464.
- 1925, Private Laws: Ch. 162.
- 1924, Private Laws: Extra Session: Chs. 26, 63.
- 1923, Public-Local Laws: Chs. 46, 135, 585.
- 1923, Private Laws: Chs. 8, 148, 149, 255.
- 1921, Public-Local Laws: Chs. 46, 280.
- 1921, Private Laws: Chs. 142, 252, 253.
- 1921, Private Laws: Extra Session: Ch. 42.
- 1920, Public-Local Laws: Extra Session: Ch. 220.
- 1920, Private Laws: Extra Session: Ch. 71.
- 1919, Public Laws: Ch. 158.
- 1919, Public-Local Laws: Chs. 42, 99, 116, 226, 380, 479
- 1919, Private Laws: Ch. 15.
- 1917, Public-Local Laws: Chs. 86, 161, 231, 592, 667.
- 1917, Private Laws: Chs. 20, 22, 45, 60, 61, 131, 138.
- 1915, Public-Local Laws: Chs. 297, 433, 756.
- 1915, Private Laws: Chs. 89, 115, 279, 328.
- 1913, Public-Local Laws: Chs. 53, 85, 370.
- 1913, Private Laws: Chs. 336, 377, 447.
- 1913, Private Laws: Extra Session: Ch. 5.
- 1911, Public-Local Laws: Chs. 199, 246, 674.
- 1911, Private Laws: Chs. 35, 39, 228.
- 1909, Public Laws: Chs. 91, 235, 503, 680.
- 1907, Public Laws: Chs. 73, 268, 285, 295, 478, 982.
- 1907, Private Laws: Chs. 214, 231.
- 1905, Public Laws: Ch. 127.
- 1905, Private Laws: Ch. 76.
- 1903, Public Laws: Ch. 386.
- 1901, Public Laws: Chs. 309, 581.
- 1901, Private Laws: Chs. 119, 304, 345.
- 1899, Public Laws: Chs. 124, 484.
- 1897, Private Laws: Chs. 91, 110.
- 1895, Public Laws: Ch. 64.
- 1895, Private Laws: Ch. 204.
- 1891, Public Laws: Chs. 144, 181, 589.
- 1891, Private Laws: Ch. 119.
- 1889, Public Laws: Ch. 483.
- 1889, Private Laws: Ch. 154.
- 1887, Public Laws: Ch. 354.
- 1885, Public Laws: Chs. 9, 290.
- 1885, Private Laws: Ch. 87.
- 1883, Public Laws: Ch. 141.
- 1883, Private Laws: Ch. 106.
- 1881, Private Laws: Ch. 106.
- 1874-75, Private Laws: Ch. 110.
- 1868-69, Private Laws: Ch. 94.
- 1866-67, Private Laws: Ch. 25.

**Sec. 3.** This act shall not be deemed to repeal, modify or in any manner affect any validating laws applying to the County of Durham or to the City of

Durham. As used in this section, the term "validating laws" means laws ratifying, confirming, approving or validating official proceedings (including special assessment and annexation proceedings), actions (including acquisitions and disposals of property or interests therein), contracts, bonds or obligations of any kind.

**Sec. 4.** No provision of this act is intended, nor shall any be construed to affect in any way any right or interest:

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act; or

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinance or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

**Sec. 5.** No law repealed, expressly or by implication, before the effective date of this act, is revived by:

(a) the repeal in this act of any act repealing that law, or

(b) any provision of this act that disclaims an intention to repeal or affect enumerated laws.

**Sec. 6.** The Durham County Board of Elections shall conduct a referendum on the proposed consolidation of the governments of Durham County and the City of Durham on September 10, 1974. The form of the ballot shall be that prescribed by Section 11 of Chapter 600 of the 1971 Session Laws.

**Sec. 7.** All laws and clauses of laws in conflict with the provisions of this act are repealed.

**Sec. 8.** Section 6 of this act is effective upon ratification of this act. No other provisions of this act become effective unless the voters of Durham County approve the consolidation of the governments of Durham County and the City of Durham in the referendum to be held on September 10, 1974. If the voters approve consolidation of the governments in that referendum, Sections 10-8, 10-9 and 10-12 of the charter for the Durham Government are effective on September 17, 1974. All other provisions of the charter and this act are effective upon establishment of the consolidated government on December 1, 1975.

In the General Assembly read three times and ratified, this the 15th day of March, 1974.

## S. B. 1271

## CHAPTER 990

### AN ACT RELATING TO THE RESIDENCE REQUIREMENTS OF THE CITY OF SANFORD REDEVELOPMENT COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 160A-508 (formerly G.S. 160-458), members of the City of Sanford Redevelopment Commission shall not be required to be residents of the City of Sanford. Any actions heretofore taken by the City of Sanford Redevelopment Commission are hereby validated to the same extent as if all members of the Commission had been residents of the City of Sanford.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

**S. B. 1225                      CHAPTER 991**

**AN ACT TO REWRITE G.S. 44A-24 PERTAINING TO FALSE WRITTEN STATEMENTS IN CONNECTION WITH IMPROVEMENT OF REAL PROPERTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The provisions of G.S. 44A-24 as appears in Volume 2A, 1973 Cumulative Supplement, of the General Statutes of North Carolina are rewritten in their entirety to read as follows:

“§ 44A-24. *False statement a misdemeanor.*—If any contractor or other person receiving payment from an obligor for an improvement to real property or from a purchaser for a conveyance of real property with improvements shall knowingly furnish to such obligor, purchaser, or to a lender who obtains a security interest in said real property, or to a title insurance company insuring title to such real property, a false written statement of the sums due or claimed to be due for labor or material furnished at the site of improvements to such real property, then such contractor, subcontractor or other person shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not to exceed two years or by both such fine and imprisonment in the discretion of the court. Upon conviction and in the event the court shall grant any defendant a suspended sentence, the court may in its discretion include as a condition of such suspension a provision that the defendant shall reimburse the party who suffered loss on such conditions as the court shall determine are proper.

The elements of the offense herein stated are the furnishing of the false written statement with knowledge that it is false and the subsequent or simultaneous receipt of payment from an obligor or purchaser, and in any prosecution hereunder it shall not be necessary for the State to prove that the obligor, purchaser, lender or title insurance company relied upon the false statement or that any person was injured thereby.”

**Sec. 2.** The provisions of this act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

**S. B. 1226                      CHAPTER 992**

**AN ACT PERTAINING TO THE MODIFICATION OF LAND RECORDS IN THE OFFICE OF THE REGISTER OF DEEDS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section known as G.S. 161-30 is written and adopted to read as follows:

“§ 161-30. *Modernization of land records.*—(a) The County Commissioners of any county may require that the Register of Deeds shall not accept for

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registration any map or instrument affecting real property unless the following requirements are satisfied:

(1) The name and address of the person to whom the map or instrument is to be returned is affixed on the face thereof.

(2) The Grantee's or Owner's permanent mailing address is affixed on the face thereof.

(b) In any county in which parcel identifiers have been assigned to any of the real property situated within the county, the County Commissioners may require that the Register of Deeds shall not accept for registration any map, deed, deed of trust or other instrument affecting real property unless the parcel identifier for all of the property described and affected is affixed and verified by the county on the face of the map or instrument or affixed and verified by the county as a part of the legal description contained in any instrument.

(c) Failure to comply with the provisions of paragraphs (a) and (b) above shall not affect the validity of any map or other instrument that is duly recorded."

**Sec. 2.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

## S. B. 1242                      CHAPTER 993

### AN ACT VALIDATING THE APPOINTMENT OF ELECTION OFFICIALS IN THE TOWN OF FAIRMONT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The appointment of the Municipal Board of Elections of the Town of Fairmont by the Board of Commissioners of the Town of Fairmont on October 2, 1973, and the appointment of registrars and judges of election for the 1973 election by the Board of Commissioners of the Town of Fairmont, and the ratification by the Municipal Board of Elections of such appointment of registrars and judges are hereby in all respects confirmed, ratified and validated. The November 6, 1973, election of mayor and commissioners of the Town of Fairmont is hereby in all respects confirmed, ratified and validated.

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

## S. B. 1276                      CHAPTER 994

### AN ACT TO AMEND G.S. 135-5, G.S. 135-3 AND G.S. 128-27 RELATING TO CERTAIN RETIREMENT BENEFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-5(d3)(2), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"(2) Notwithstanding the foregoing provisions,

(i) any member whose creditable service commenced prior to July 1, 1971, shall receive not less than the benefit provided by G.S. 135-5(d2);

(ii) the amount of disability allowance payable from the reserve funds of the Retirement System to any member retiring on or after July 1, 1974, who is eligible for and in receipt of a disability benefit under the Social Security Act shall be seventy percent (70%) of the amount calculated under (1) above, and the balance shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements; and

(iii) the amount of disability allowance payable to any member retiring on or after July 1, 1974, who is not eligible for and in receipt of a disability benefit under the Social Security Act shall not be payable from the reserve funds of the Retirement System but shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements.”

**Sec. 2.** G.S. 128-27(d3)(2), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

“(2) Notwithstanding the foregoing provisions,

(i) any member whose creditable service commenced prior to July 1, 1971, shall receive not less than the benefit provided by G.S. 128-27(d2);

(ii) the amount of disability allowance payable from the reserve funds of the Retirement System to any member retiring on or after July 1, 1974, who is eligible for and in receipt of a disability benefit under the Social Security Act shall be seventy percent (70%) of the amount calculated under (1) above, and the balance shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements; and

(iii) the amount of disability allowance payable to any member retiring on or after July 1, 1974, who is not eligible for and in receipt of a disability benefit under the Social Security Act shall not be payable from the reserve funds of the Retirement System but shall be provided by the employer from time to time during each year in such amounts as may be required to cover such payments as current disbursements.”

**Sec. 3.** G.S. 135-5(g), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by rewriting the fourth paragraph to read as follows:

“Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one-half of the retirement allowance without optional modification which would otherwise be payable to him; or”.

**Sec. 4.** G.S. 128-27(g), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by rewriting the fourth paragraph to read as follows:

“Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less

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than one-half of the retirement allowance without optional modification which would otherwise be payable to him; or”.

**Sec. 5.** G.S. 135-3, subdivision (8)a, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by striking out the period immediately after the word “employment” at the end of subdivision (8)a, inserting a comma in lieu thereof and adding the words “provided that he is otherwise vested.”

**Sec. 6.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

## H. B. 1911      CHAPTER 995

AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT WITH RESPECT TO THE MATURITY SCHEDULE OF BONDS BY CORRECTING A TRANSCRIPTION ERROR.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 883 of the 1974 Session Laws of the General Assembly of North Carolina, which was ratified on February 22, 1974, is hereby repealed.

**Sec. 2.** G.S. 159-65(4), as enacted by Chapter 780 of the Session Laws of 1971, as amended by Chapter 494 of the Session Laws of 1973, and as the same appears in the 1973 Cumulative Supplement to Volume 3D of the General Statutes, is amended by inserting the word “prior” between the words “smallest” and “installment,” so that G.S. 159-65(4) reads as follows:

“(4) No installment of any issue may be more than four times as great in amount as the smallest prior installment of the same issue.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

## H. B. 1949      CHAPTER 996

AN ACT TO DEFINE THE CORPORATE LIMITS OF THE TOWN OF HILDEBRAN BY AMENDING CHAPTER 433, SESSION LAWS OF 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2. of Chapter 212, Private Laws of 1899, as amended by Section 2 of Chapter 433, Session Laws of 1973, is hereby rewritten to read as follows:

The corporate limits of the Town of Hildebran shall be that territory enclosed by a line starting at a point 1/2 mile west of the existing center of Town on the south side of Hwy. 64-70 and west of “R” Street (Plat 32 and 32B Icard Township, Burke County Map Sheet #46) and proceeding north to the North Boundary of the Southern R.R. right of way, thence east along the right of way to the east boundary of Plat 26A, map sheet #25, north to South boundary of Plat 18, east on unnumbered road (North Boundary) to S.R. 1628, north on East Boundary of SR 1628 to North boundary of Plat 40, Map sheet 43, east to Plat 43, North to South boundary Plat 42, East to east boundary Plat 45B, south to unnumbered E.W. road now marked as 3rd Ave., N.E., thence due

east for approx 2200 feet, due south 2600 ft. to an intersection of SR 1761 and SR 1778, Southeast on the west boundary of S.R. 1778 to the west boundary of a two lane road designated "Ramp A U.S. 64A", S.W. to a monument marking the north boundary of Interstate 40, west along state owned fence marking the right of way to a second monument located at the west boundary of S.R. 1772, north to north boundary of SR 1761, NW. to Plat 53, sheet 46, thence north to the starting point, encompassing approximately the same acreage as that authorized in the original Town Charter."

**Sec. 2.** Section 2. of Chapter 433, Session Laws of 1973 is repealed.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

**H. B. 1973 CHAPTER 997**

**AN ACT TO AUTHORIZE THE TOWN OF AYDEN TO MAKE STREET AND SIDEWALK IMPROVEMENTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing board of the Town of Ayden is authorized to order street improvements and assess the cost thereof, exclusive of the costs incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the council as a fact:

(a) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or

(b) That it is in the public interest to connect two streets, or portions of a street already improved, or

(c) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this act.

**Sec. 2.** For the purposes of this act, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

**Sec. 3.** In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the governing board of the Town of Ayden is hereby authorized to order to be made or to make sidewalk improvements or repairs without petition according to standards and specifications of the town and to assess the total cost thereof against abutting property owners.

**Sec. 4.** In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this act, the governing board of the Town of Ayden shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.



H. B. 132                      **CHAPTER 1000**

AN ACT TO SPECIFY THE AUTHORITY OF LOCAL BOARDS OF ALCOHOLIC CONTROL TO ACQUIRE AND DISPOSE OF PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-17(8) is amended to read as follows:

“(8) To purchase or lease property, furnish and equip buildings, rooms, and accommodations as and when required for the storage and sale of alcoholic beverages and for distribution to all county stores within said county and for all other legal and proper purposes of the board;”.

**Sec. 2.** G.S. 18A-17(9) is amended to read as follows:

“(9) To dispose of property as provided in Article 12 of Chapter 160A of the General Statutes as if it were a governing body of a municipality;”.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1146                      **CHAPTER 1001**

AN ACT TO AMEND G.S. 160A-101 SO AS TO PROVIDE AN ADDITIONAL MODE OF ELECTING THE GOVERNING BODY OF MUNICIPALITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-101(6) is amended by adding a new paragraph “d.” to read as follows:

“d. The city shall be divided into electoral districts equal in number to one half the number of council seats; the council seats shall be divided equally into ‘ward seats’ and ‘at large seats’, one each of which shall be apportioned to each district, so that each council member represents the same number of persons as nearly as possible; the qualified voters of each district shall nominate and elect candidates to the ‘ward seats’; candidates for the ‘at large seats’ shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for ‘at large’ seats shall be nominated and elected by all the qualified voters of the city.”

**Sec. 2.** G.S. 160A-101(6) is amended by inserting in the first line of the unnumbered paragraph immediately after the letter “c”, the word and letter “or d”.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1726                      **CHAPTER 1002**

AN ACT TO PROHIBIT THE TAKING OF GAME FROM A SECTION OF  
RURAL ROAD 1142 IN MARTIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful for any person to hunt, take or kill any species of birds, animals or beasts, or attempt to hunt, take or kill any species of birds, animals or beasts by the use of firearms from or to discharge a firearm on or across the roadway or right-of-way of the section of rural road 1142 in Martin County beginning at its intersection with Highway No. 903 and running northeasterly to its intersection with rural road 1113.

**Sec. 2.** Any person, association of persons, or any firm or corporation violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not to exceed fifty dollars (\$50.00) or imprisoned for a period not to exceed 30 days, or both, in the discretion of the court.

**Sec. 3.** All lawful peace officers of the county and State, including wildlife game protectors, are hereby authorized, and it shall be their duty to aid in the enforcement of this law.

**Sec. 4.** This act shall apply to the portion of Martin County designated in Section 1.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1732                      **CHAPTER 1003**

AN ACT TO AMEND CHAPTER 87, SESSION LAWS OF 1961, AS  
AMENDED, PERTAINING TO THE CHARTER OF THE TOWN OF  
CHAPEL HILL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 87, Session Laws of 1961, pertaining to the Charter of the Town of Chapel Hill, as amended, be, and the same is hereby further amended by adding a new section to be designated 5.84.1 to read as follows:

“Sec. 5.84.1. *Planning Agency.*—If the Board of Aldermen desires to exercise the powers granted by this Article or by general law, and if the Board of Aldermen exercises extraterritorial jurisdiction within both Orange and Durham Counties, it shall by Ordinance create a planning agency whose members shall be appointed as follows:

Six members shall be appointed by the Board of Aldermen, and shall be citizens and residents of said Town;

Four members shall be appointed by the Orange County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill in Orange County as defined by this Article, and established under Article 19 of Chapter 160A of the General Statutes;

Two members shall be appointed by the Durham County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill lying within the County of Durham as established pursuant to Article 19 of Chapter 160A of the General Statutes.

This Planning Board shall be empowered to exercise the powers, duties, and functions of a municipal planning board as defined in Article 19 of Chapter 160A of the General Statutes. Members shall be appointed for five year terms, or until their respective successors have been appointed and qualified, provided that the initial appointees may be appointed to shorter terms of varying duration to the end that the terms of no more than three members shall expire in any one year. The jurisdiction of this Board shall include all of the area defined in Section 5.82 hereof including both the territory within the corporate limits of the Town of Chapel Hill and the outside territory over which the Chapel Hill Board of Aldermen is granted jurisdiction by this Article, and other outside territory lying within Durham or Orange Counties over which the Chapel Hill Board of Aldermen is granted jurisdiction by Chapter 767 of the Session Laws of 1967, and Chapter 1088, Session Laws of 1969, and Article 19 of Chapter 160A of the General Statutes.

**Sec. 2.** Chapter 87 of the Session Laws of 1961 pertaining to the Charter of the Town of Chapel Hill, as amended, be, and the same is hereby further amended by adding a new section to be designated Section 5.85.1, Zoning Board of Adjustment to read as follows:

“Sec. 5.85.1. *Zoning Board of Adjustment.*—If the Board of Aldermen should adopt a zoning ordinance for the territory beyond the corporate limits of Chapel Hill as authorized by this Article, or by general law, and if the Board of Aldermen exercises extraterritorial jurisdiction within both Orange and Durham Counties, it shall create a zoning Board of Adjustment whose members shall be appointed as follows:

Six members shall be appointed by the Board of Aldermen, and shall be citizens and residents of said Town;

Four members shall be appointed by the Orange County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill in Orange County as defined by this Article, and established under Article 19 of Chapter 160A of the General Statutes;

Two members shall be appointed by the Durham County Board of Commissioners, and shall be citizens and residents of the territory beyond and surrounding the territorial limits of the Town of Chapel Hill lying within the County of Durham as established pursuant to Article 19 of Chapter 160A of the General Statutes.

Said Board of Adjustment shall have and exercise all the powers, duties, and functions enumerated in Section 160A-388 of the General Statutes. Members shall be appointed for terms of three years and until their respective successors have been appointed and qualified; provided, that the initial appointees may be appointed to shorter terms of varying duration to the end that the terms of no more than four members shall expire in any one year. There shall be a quorum of six members for the purpose of hearing cases. The concurring vote of four-fifths of the members present for the hearing of any case shall be necessary in order (a) to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of the ordinance, or (b) to decide in favor of the applicant in any matter upon which it is required to pass under any such ordinance, or (c) to affect any variation in such ordinance.

**Sec. 3.** In the event that the Board of Aldermen of the Town of Chapel Hill exercises extraterritorial jurisdiction in both Durham County and Orange

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County, then and in that event Sections 5.84 and 5.85 of Chapter 87 of the Session Laws of 1961 shall no longer continue in effect, and the procedure for the appointment of members of the planning board and the board of adjustment shall be in lieu of that established by G.S. 160A-362.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

## H. B. 1745 CHAPTER 1004

AN ACT TO ESTABLISH A LIEN AND PROVIDE FOR THE USE OF ATTACHMENT AND GARNISHMENT FOR COLLECTION OF SOLID WASTE COLLECTION SERVICE CHARGES IN GUILFORD COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created a general lien upon the real property which has been furnished solid waste collection service by Guilford County or at the expense of Guilford County or by any one under contract with Guilford County.

**Sec. 2.** Whenever solid waste collection service is provided by Guilford County or at the expense of Guilford County or by any one under contract with Guilford County, and the recipient of such services fails to pay the charges fixed for such services for a period of 90 days after the rendering of such services, Guilford County may treat the amount due for such services as if it were a tax due to the county and may proceed to collect the amount due by the use of attachment and garnishment proceedings as set forth in G.S. 105-385(d).

**Sec. 3.** No lien created under Section 1 shall be valid but from the time of filing in the office of the Clerk of Superior Court a statement containing the name and address of the person against whom the lien is claimed, that Guilford County is claiming such a lien, the amount of the unpaid charge for solid waste collection service and the date and place of furnishing solid waste collection services for which charges are asserted and the lien claimed. No lien under this section shall be valid unless filed after 90 days of the date of the furnishing of the solid waste collection service, and within 180 days of the date of the furnishing of solid waste collection service.

**Sec. 4.** Liens herein created may be discharged as follows:

(1) By filing with the Clerk of Superior Court a receipt of acknowledgment, signed by the County Treasurer, that the lien has been paid or discharged;

(2) By depositing with the Clerk of Superior Court money equal to the amount of the claim, which money shall be held for the benefit of the claimant; or

(3) By an entry on the lien docket that the action on the part of a lien claimant to enforce the lien has been dismissed, or a judgment has been rendered against the claimant in such action.

**Sec. 5.** Guilford County may take such action to foreclose on said lien as herein created in the same manner as is provided for the foreclosure of the lien on real estate for ad valorem taxes.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

**H. B. 1749                      CHAPTER 1005**

**AN ACT TO EMPOWER GRANVILLE HOSPITAL TO USE ATTACHMENT AND GARNISHMENT PROCEDURES FOR COLLECTING UNPAID BILLS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Whenever hospital services are provided by Granville Hospital and a recipient of such services fails to pay the charges fixed for such services for a period of 120 days after demand is made for the rendering of such services, the Hospital may treat the amount due for such services as if it were a tax due to the County of Granville and may attach wages or other compensation, rents, bank deposits or any other intangible property and may proceed to collect the amount due through the use of attachment and garnishment proceedings as provided in G.S. 105-364 and G.S. 105-368.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

**H. B. 1771                      CHAPTER 1006**

**AN ACT TO AMEND CHAPTER 459 OF THE SESSION LAWS OF 1963 RELATING TO ELIGIBILITY FOR SUPPLEMENTAL RETIREMENT BENEFITS FOR MEMBERS OF THE FIRE DEPARTMENT OF THE TOWN OF MORGANTON.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of Chapter 459 of the Session Laws of 1963 is hereby amended by rewriting the first paragraph of the section to read as follows:

“Sec. 4. Eligibility for Supplemental Benefits. All firemen of the Morganton Fire Department, both uniformed and volunteer firemen, shall be eligible to receive supplemental benefits from this fund upon reaching fifty-five years of age, provided such firemen have twenty years of active service with the Morganton Fire Department. For the purpose of this section ‘supplemental benefit’ as used herein shall be defined to mean any sum of money payable by the fund to a fireman of the Morganton Fire Department who becomes eligible for said benefits as hereinbefore set forth.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

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H. B. 1791

CHAPTER 1007

AN ACT TO PROHIBIT WATERFOWL HUNTING FROM CERTAIN  
ROADS AND HIGHWAYS IN CHOWAN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby enacted a new section to be placed in Article 10A of Chapter 113 of the General Statutes as follows:

“§ 113-120.5. *Hunting waterfowl from a highway a misdemeanor.*—It shall be a misdemeanor punishable by up to 30 days imprisonment and a fine of up to one hundred dollars (\$100.00) to take waterfowl by hunting when firing from a position on a road or highway within the following area of Chowan County, including both boundaries of the roads and highways referenced with this description: South of N. C. Highway 32 East from Edenton to the Albemarle Sound - includes all land from the city limits from Edenton to the Albemarle Sound Bridge. Both county and Board of Conservation and Development law enforcement officers shall enforce this section outside the city limits of Edenton.”

**Sec. 2.** This act shall become effective two weeks after ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1828

CHAPTER 1008

AN ACT AUTHORIZING THE DAVIE COUNTY BOARD OF EDUCATION  
TO CONVEY CERTAIN REAL PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Davie County Board of Education is hereby authorized to convey by good and sufficient deed all its right, title and interest in and to the hereafter described tract of land located in Davie County, Farmington Township, North Carolina, to the Smith Grove Volunteer Fire Department, Inc., at a private sale with or without consideration.

“BEGINNING on an old iron in the Northwest line of the right-of-way of U.S. Highway #158 (said right-of-way being 120 feet wide) at the common corner of the described property and the property of the Bahnson Company, and running thence with the line of the Bahnson Company North 27 deg. 52 min. West 150 feet to an iron; thence North 61 deg. 45 min. East 180 feet to an iron; thence South 27 deg. 52 min. East 150 feet to an iron in the Northwestern line of the right-of-way of U.S. Highway #158; thence with said line of said right-of-way South 61 deg. 45 min. West 180 feet to the place of beginning, and being a portion of the property authorized to be conveyed by the Davie County Board of Education to the Smith Grove Community Development Center, Inc., by Chapter 399 of the 1971 Session Laws, as amended by Chapter 543 of the 1971 Session Laws.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1834                      **CHAPTER 1009**

AN ACT TO AMEND CHAPTER 263 OF THE 1973 SESSION LAWS RELATING TO TAXING DISTRICTS IN GUILFORD COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 263 of the 1973 Session Laws is hereby amended by adding a new sentence at the end to read as follows:

“The Board of Elections of Guilford County may adopt rules and regulations which would require special registration for those persons who own real property in any proposed taxing district and who are not residents of such proposed taxing district.”

**Sec. 2.** This act shall be applicable only to Guilford County.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1835                      **CHAPTER 1010**

AN ACT MODIFYING THE TERMS OF OFFICE OF CERTAIN MEMBERS OF THE BURKE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The term of office of two members of the Burke County Board of Education is modified as follows: The term of Dr. Charles Cooke, which was to expire on the first Monday in April, 1977, will expire on the first Monday in April, 1975; The term of Mr. Paul Atwell, which was to expire on the first Monday in April, 1975, is hereby extended for two years until the first Monday in April, 1977.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1840                      **CHAPTER 1011**

AN ACT TO PROVIDE FOR STAGGERED TERMS FOR LA GRANGE COUNCIL MEMBERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The offices of the municipality of La Grange shall consist of a mayor and six council members. Beginning with the regular municipal election and primary to be held in 1975, the election shall be conducted on a partisan basis as provided in Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina.

The Mayor shall be elected for a term of four years. In the 1975 election, the three candidates for the council who received the highest number of votes shall be elected to terms of four years, and the three candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms expire, the successors shall be elected for terms of four years each.

**Sec. 2.** The terms of the mayor and council members presently holding office shall continue until their successors are elected in November, 1975, and qualify pursuant to law.

**Sec. 3.** This act shall become effective upon ratification.

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In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1956 CHAPTER 1012

AN ACT TO MAKE A TECHNICAL AMENDMENT IN THE LAW RELATING TO APPLICATION FOR ABC PERMIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-39(7) as same appears in Volume 1C, 1973 Cumulative Supplement of the General Statutes of North Carolina, is hereby amended by deleting therefrom the words "and that he is a citizen of the United States, . . ."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. B. 1353 CHAPTER 1013

AN ACT AUTHORIZING THE REGISTER OF DEEDS TO RECORD AND FILE DOCUMENTS RELATING TO PERSONS, PARTNERSHIPS, AND CORPORATIONS FOR BUSINESS AND OTHER PURPOSES IN CONSOLIDATED BOOKS OR RECORDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Register of Deeds is hereby authorized to record and file documents relating to persons, partnerships, and corporations for business and other purposes, including but not limited to certificates of partnerships, assumed business names, incorporations, dissolutions, or amendments thereto, in a consolidated book or record, including books or records used for the filing of deeds, deeds of trust, leases, and similar documents. It is the intent of this act that the Register of Deeds may file and record some or all of the above instruments and documents and those of a similar nature in one book or record or in a series of books or records consolidated for recording purposes; provided, said instruments and documents shall be indexed as required by law.

**Sec. 2.** All other laws providing for the filing of documents provided for herein shall not be applicable to the county upon adoption by the Register of Deeds of a consolidated recording and filing system as authorized herein.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

**H. B. 1354                      CHAPTER 1014**

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES SO AS TO ALLOW THE SALE OF RICE-BASED WINES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 18A-2(2) as the same appears in the 1971 Cumulative Supplement Volume 1-C of the General Statutes of North Carolina is hereby amended to read as follows:

“(2) ‘fortified wine’ shall mean any wine that is made by fermentation from grapes, fruits, berries, or rice, to which nothing but pure brandy has been added, which brandy is made from the same type of grape, fruit, berry, or rice, that is contained in the base wine to which it is added and having an alcoholic content of over fourteen percent (14%) and not more than twenty-one percent (21%) of absolute alcohol, reckoned by volume; and is approved by the State Board of Alcoholic Control as to identity, quality, and purity as provided in this Chapter.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

**H. B. 1381                      CHAPTER 1015**

AN ACT TO AMEND GENERAL STATUTES SECTION 47-41, ENTITLED “CORPORATE CONVEYANCES”.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-41 is hereby amended at lines 4-8 thereof by rewriting the second sentence to read as follows:

“If the deed or other instrument is executed by the president, any vice-president, assistant vice-president, manager, comptroller, treasurer, assistant treasurer, trust officer or assistant trust officer of such corporation signing the name of such corporation by him as such officer, is sealed with its common, or corporate seal, and is attested by its secretary or assistant secretary, trust officer, assistant trust officer, associate trust officer, or, in case of a bank, by its secretary, assistant secretary, cashier or assistant cashier, the following form or acknowledgement is sufficient:....”

**Sec. 2.** This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

**H. B. 1382                      CHAPTER 1016**

AN ACT TO ADOPT A SECTION KNOWN AS G.S. 47-4.1 OF THE NORTH CAROLINA GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 47 of the General Statutes is hereby amended by inserting therein a new section, G.S. 47-4.1 to read as follows:

“§ 47-4.1. *By notary public of state other than North Carolina.*—If the proof or acknowledgment of any instrument is had before a notary public of any state other than North Carolina and the instrument does not show the seal or stamp of the notary public and the expiration date of the commission of the notary

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public, the certificate of proof or acknowledgment made by such notary public shall be accompanied by the certificate of the county official before whom the notary qualifies for office, stating that such notary public was at the time his certificate bears date an acting notary public of such state, and that such notary's genuine signature is set to his certificate. The certificate of the official herein provided for shall be under his hand and official seal."

**Sec. 2.** This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1402                      **CHAPTER 1017**

AN ACT TO CORRECT A TECHNICAL OVERSIGHT IN G.S. 20-8(1) BY STRIKING "ARMY, NAVY OR MARINE CORPS" AND INSERTING "ARMED FORCES".

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-8(1) is hereby amended by striking the words "Army, Navy or Marine Corps" appearing in line 2 thereof, and inserting in lieu thereof the words "Armed Forces".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1427                      **CHAPTER 1018**

AN ACT TO AMEND G.S. 163-226 TO AUTHORIZE ABSENTEE BALLOTS IN ALL STATEWIDE ELECTIONS INVOLVING REFERENDA, CONSTITUTIONAL AMENDMENTS AND OTHER PROPOSITIONS SUBMITTED TO THE PEOPLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-226 is amended by adding a subsection (e) to read:  
"(e) Any qualified voter of the State, qualified to vote an absentee ballot under this section may vote an absentee ballot in any statewide election on constitutional amendments, referenda or other propositions or issues except statewide bond issues submitted to the people."

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1434                      **CHAPTER 1019**

AN ACT TO REPEAL THE PROVISION IN G.S. 105-228.5 WHICH NOW ALLOWS TAXATION OF DOMESTIC INSURANCE COMPANIES PRIMARILY ENGAGED IN CASUALTY INSURANCE BUSINESS AS CASUALTY COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-228.5, as the same appears in the 1973 Cumulative Supplement to Replacement Volume 2D of the General Statutes, is hereby amended by rewriting the first full sentence that appears on page 104 of said

Cumulative Supplement, beginning at line 2 thereof and extending through line 6 thereof, so that the same shall read as follows:

“Any domestic life insurance company collecting more than half of its annual gross premiums from lines of business excluding those described in G.S. 58-72(1) and (2) and further excluding any premiums derived from credit life, credit health, or credit accident insurance may, prior to the return due date, elect to be taxed as a domestic casualty insurance company under the provisions of this paragraph.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1587

**CHAPTER 1020**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOOKERTON, NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Incorporation and Corporate Powers. The inhabitants of the Town of Hookerton, North Carolina, within the boundaries as established in Section 3 of this Charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name of the Town of Hookerton, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interests may require, and except as prohibited by the Constitution of North Carolina or restricted by Charter, the Town of Hookerton shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature, whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Hookerton by this section:

(1) To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred.

(2) To furnish all local public services, to purchase, hire, construct, own, maintain and operate or lease local public utilities, to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(3) To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvements and to sell or lease such excess property with restrictions, in order to protect and preserve the improvements.

(4) To sell any real or personal property in accordance with Article 12 of Chapter 160A of the General Statutes of North Carolina.

(5) To organize and administer public libraries.

(6) To adopt and enforce within its limits local police, sanitary and other similar regulations not in conflict with general laws.

(7) To organize and administer public recreation facilities and to appoint a Commissioner or committees to administer same, not prohibited by the General Statutes of the State of North Carolina.

**Sec. 2. Enumerated Powers Not Exclusive.** The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Hookerton shall have and may exercise all powers, which, under the Constitution of North Carolina, it would be competent for this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by Ordinance or Resolution of the Board of Commissioners.

**Sec. 3. Corporate Boundaries.** The Corporate Boundaries of the Town shall be as follows:

“BEGINNING at the mouth of Rainbow Run where said Rainbow Run empties into Contentnea Creek, formerly known as Moccasin River and runs up said Rainbow Run as it meanders to a concrete monument on East side of Rainbow Run; thence leaving said Run S 5-00 W 772’ to center line Church Street; thence with Church Street S 85-00 E 300’ thence S 5-00 W 588.5’ to Northern right of way Greene Street; thence with Northern right of way Greene Street N 86-15 W 110’ to iron stake on Western right of way of Seventh Street formerly Rainbow Street; thence S 5-23 W with said Western right of way of Seventh Street 987’ to iron stake on Southern right of way of Stephenson Street; thence with said right of way S 86-15 E 200’ to iron stake; thence S 5-23 W 511.5’ to iron stake; thence S 86-15 E 500’ to iron stake on Western right of way of Highway N. C. 123 on Fifth Street; thence with said right of way S 5-23 W 500’ to concrete post; thence S 84-37 E 400’ to a stake; thence N 5-23 E 1509.9’ to the Southeastern corner of Fourth and Ormond Street; thence S 82-00 E 465.5’ to stake in old ditch or old Railroad bed; thence N 24-15 E 655’ with said ditch or Railroad bed to a stake; thence S 85-00 E 722.2’ to a stake on ditch; thence N 24-04 E 348.15’ with ditch to center line N. C. S. R. 1430; thence continuing with ditch through pond N 6-02 E 714.5’ to center line Branch; thence continuing N 6-02 E 111.75’ to iron stake cemetery corner; thence due North 243’ with cemetery line to a stake thence NO-15E 1169’ to a stake on Contentnea Creek, thence up said Creek to the mouth of Rainbow Run the beginning.”

**Sec. 4. Creation, Salary and Composition of Mayor and Board of Commissioners.** Except as otherwise provided in this Charter all powers of the Town shall be vested in a Board of Commissioners, consisting of four members and a Mayor, nominated and elected from the Town at large in the manner hereinafter provided. The term of office of the Mayor and the Board of Commissioners shall be as hereinafter provided and until their successors are elected and qualified, and shall begin on the first day of December next following their election. If a vacancy occurs in the office of Mayor or Commissioners, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Board of Commissioners.

The Mayor and each member of the Board of Commissioners shall receive a salary, the amount of which shall be prescribed by Ordinance, in accordance with G.S. 160A-64. Provided, however, that the present Mayor and Board of

Commissioners shall continue to receive the same salary until the same is changed as provided herein.

Members of the Board of Commissioners shall be qualified electors of the Town. A member of the Board of Commissioners ceasing to possess all of the qualifications specified in Article VI, Section 2, of the Constitution of North Carolina shall immediately forfeit his office.

**Sec. 5. Meetings of the Board of Commissioners.** At 7:00 o'clock P.M. on the first Monday in December, following a regular municipal election, the Board of Commissioners shall meet at the usual place for holding its meeting and newly elected members shall assume the duties of office. Thereafter the Board of Commissioners shall meet at such times as may be prescribed by Ordinance or Resolution, but not less frequently than once each month. Special meetings shall be called by the Clerk upon request by the Mayor or two members of the Board of Commissioners. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be there considered. All meetings of the Board of Commissioners and of committees thereof shall be open to the public, and the rules of the Board of Commissioners shall provide that citizens of the Town shall have a reasonable opportunity to be heard at any such meetings in regard to any matter considered thereat.

**Sec. 6. Mayor and Mayor Pro Tem.** At its first meeting in the month of December following a regular municipal election, the Board of Commissioners shall choose one of its members as Vice-Chairman, who shall act as Mayor Pro Tem. The Mayor shall preside at meetings of the Board of Commissioners and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this Charter, and the Ordinances of the Town. He shall be recognized as the head of the Town Government for all ceremonial purposes, by the Courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor shall, if so authorized and directed by vote of the Board of Commissioners, take command of the police, maintain order and enforce the law. In case of the absence or disability of the Mayor, the Mayor Pro Tem shall act as Mayor during the continuance of the absence or disability.

**Sec. 7. Board of Commissioners - Rules.** The Board shall determine its own rules and order of business and keep a journal of its proceedings.

**Sec. 8. Quorum.** A majority of the members elected to the Board of Commissioners shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Board of Commissioners shall be necessary to adopt any ordinances, resolutions, order, or vote; except that a vote to adjourn, or regarding the attendance of absent members may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved.

**Sec. 9. Introduction and Passage of Ordinances and Resolutions.** Ordinances and resolutions shall be introduced in the Board of Commissioners only in written or printed form. Ordinances making appropriations shall be confined to the subject of appropriations. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the

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proceedings of the Board of Commissioners. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE TOWN OF HOOKERTON—".

**Sec. 10.** When Ordinances and Resolutions Take Effect - Emergency Measures. Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of Town affairs, resolutions requesting information from administrative officers or directing administrative action, and emergency measures shall take effect at the time indicated therein. Except as otherwise prescribed in this Charter, all other ordinances and resolutions passed by the Board of Commissioners shall take effect at the time indicated therein, but not less than ten days from the date of their passage. An emergency measure is an ordinance of resolution to provide for the immediate preservation of the public peace, property, health, or safety in which the emergency claimed is set forth and defined in the preamble thereto.

No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared as an emergency by the Board of Commissioners except as defined in this section, and it is the intention of this Charter that such definition shall be strictly construed by the Courts.

**Sec. 11.** Authentication and Publication of Ordinances and Resolutions. Upon its final passage each ordinance or resolution shall be authenticated by the signature of the Mayor and the Town Clerk and shall be recorded in a book kept for that purpose.

**Sec. 12.** Election Laws. That for the purpose of selecting a mayor and members of the Board of Commissioners of said Town, there shall be held on the first Tuesday after the first Monday in November of 1975 and biennially thereafter a nonpartisan election, which election shall be held under the rules and regulations as prescribed by State law except as follows:

1. The candidate running for the office of mayor who receives the highest number of votes shall be elected.

2. The term of office of the mayor shall be for two years; provided that anyone who serves as mayor shall be eligible for reelection.

3. The four candidates running for the office of commissioner receiving the highest number of votes shall be elected.

4. The two commissioners elected with the highest vote at the election to be held on the first Tuesday after the first Monday in November, 1975, shall be elected and shall hold office for four years or until their successors are elected, and the two commissioners elected with the lowest vote shall be elected and hold office for a period of two years or until their successors are elected; and the election thereafter held on the first Tuesday after the first Monday in November, 1977, shall be for the election of a Mayor for a two-year term and for the election of two commissioners for a term of four years, to succeed the two commissioners elected in 1975 for a two-year term. Thereafter the municipal election shall be held biennially as above provided for a Mayor and for two commissioners.

**Sec. 13.** Appointment of Officers and Employees. The Board of Commissioners may appoint a Town Clerk, a Treasurer, a Tax Collector, an Accountant, a Town Attorney, a Chief of Police, a Fire Chief, and such other officers and employees as may be necessary, none of whom need be a resident of

the Town at the time of appointment; provided, that the Board of Commissioners may appoint one person to fill any two or more such positions. Such employees or officers shall serve at the pleasure of the Board of Commissioners and shall perform such duties as may be prescribed by the Board of Commissioners.

The Board of Commissioners shall fix salaries, prescribe bonds and require such oaths as they may deem necessary or as by law provided.

**Sec. 14. Town Clerk.** The Board of Commissioners shall choose a Town Clerk. The Town Clerk shall keep the records of the Board of Commissioners and perform such other duties as may be required by law or by the Board of Commissioners, including those set forth in Section 16 hereof.

**Sec. 15. Duties of the Town Attorney.** The Town Attorney shall be an Attorney at Law who shall have qualified to practice in the State of North Carolina. He shall be the chief legal advisor of and attorney for the Town and all departments and officers thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate to perform all services incident to the department of law; to attend all meetings of the Board of Commissioners when requested and to give advice in writing when requested, to the Board of Commissioners or the directors of any department; to prosecute or defend, as the case may be, all suits or cases to which the Town may be a party; to prepare all contracts, bonds and other instruments in writing in which the Town is concerned, and to endorse on each, his approval of the form and correctness thereof, and to perform such other duties of a legal nature as the Board of Commissioners may require. In addition to the duties imposed upon the Town Attorney by this Charter or required by ordinance or resolution of the Board of Commissioners, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

**Sec. 16. Fiscal affairs.** The adoption and administration of the annual budget ordinance and the administration of the Town's fiscal affairs generally shall be governed by the Local Government Budget and Fiscal Control Act, Article 2 of Chapter 159 of the General Statutes of North Carolina.

**Sec. 17. Town Tax Collector.** A Tax Collector, who may also be the Clerk, shall have the powers and perform the duties conferred and imposed on municipal tax collectors by the Machinery Act.

**Sec. 18. Custody of Town Money.** All money received by any department or agency of the Town for or in connection with the business of the Town government shall be paid promptly into the Town depository. Such institution or institutions shall be designated, and deposits therein shall be secured, as provided by the Local Government Budget and Fiscal Control Act. All interest on moneys belonging to the Town shall accrue to the benefit of the Town government. All moneys belonging to the Town government shall be disbursed only on vouchers signed by the Mayor and countersigned by the Town Clerk or Treasurer, if any.

**Sec. 19. Issuance of Bonds.** The Town may issue bonds for the purpose and in the manner prescribed by the General Laws of North Carolina for the issuance of bonds by municipalities.

**Sec. 20. Purchase Procedure.** Purchases for equipment and materials may be made by the Town for the purpose and in the manner prescribed by the General Laws of the State of North Carolina.

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**Sec. 21. Contracts for Town Improvements.** Contracts for Town improvements may be made by the Town for the purpose and in the manner prescribed by the General Laws of the State of North Carolina.

**Sec. 22. Independent Audit.** As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the Town government by qualified public accountants, selected by the Board of Commissioners, who have no personal interest directly or indirectly in the financial affairs of the Town government or of any of its officers.

**Sec. 23. Publicity of Records.** All records and accounts of every office and department of the Town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the Board of Commissioners.

**Sec. 24. Oath of Office.** Every officer of the Town shall, before entering upon the duties of his office, take and subscribe the oath prescribed by Article VI, Section 7, of the Constitution of North Carolina."

**Sec. 25. Continuance of Contracts.** All contracts entered into by the Town or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and Charter provisions.

**Sec. 26. Saving Clause.** If any part of this Charter shall be declared invalid by a Court of competent jurisdiction, such judgement shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, in so far as the Town of Hookerton is affected thereby.

**Sec. 27. All Acts and Clauses of Acts in Conflict.** All Charter provisions heretofore enacted by and for the Town of Hookerton, North Carolina, be and the same are hereby repealed.

**Sec. 28. Police Jurisdiction.** The Town of Hookerton Police shall have jurisdiction to make arrest and investigations anywhere within the confines of Hookerton Township.

**Sec. 29. Zoning.** The Board of Commissioners of the Town of Hookerton shall have authority and power to adopt, alter, extend, and amend a zoning ordinance for the Town, and also may adopt an ordinance regulating the areas outside the Town within the provisions of the general laws of the State of North Carolina, pertaining to zoning outside the city limits.

**Sec. 30. Appointment of Boards, Committees, and Commissions.** The Board of Commissioners shall have authority to appoint various Boards, Committees, and Commissions, deemed necessary to conduct the business of the Town and its various departments and shall have the power to direct and control their activities and to set salaries for their services, not inconsistent with the general laws of the State of North Carolina.

**Sec. 31.** This Act. This act shall be in full force and effect from and after its ratification provided that the Mayor and the Board of Commissioners in office at the time this Charter takes effect shall continue until their successors are elected and qualified.

**Sec. 32.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 33.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

**H. B. 1719                      CHAPTER 1021**

**AN ACT TO AMEND ARTICLE 1 OF THE CHARTER OF THE CITY OF EDEN AS SET FORTH IN CHAPTER 967, SESSION LAWS OF 1967.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 1, of the Charter of the City of Eden, as set forth in Chapter 967, Session Laws of 1967, is hereby amended by adding a new Section 1.1a. thereto to read as follows:

“Sec. 1.1a. Alternative condemnation procedures. In exercising the power of eminent domain for any public purpose, if negotiations for the purchase of land or rights in land are unsuccessful, the City may in its discretion use the procedures of Article 2 of Chapter 40 of the General Statutes, or Article 9 of Chapter 136 of the General Statutes, or the procedures of any other general law, charter, or local act applicable to the City. As contained in the General Statutes above mentioned, wherever the words ‘Board of Transportation’ appear they shall be deemed to include ‘city’ or ‘council’ and wherever the words ‘chairman’, or ‘Chairman of the Board of Transportation’ appear they shall be deemed to include ‘city clerk’.

Provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

**H. B. 1776                      CHAPTER 1022**

**AN ACT TO AUTHORIZE TABOR CITY TO ANNEX CERTAIN LANDS SUBJECT TO APPROVAL BY THE CITIZENS VOTING IN REFERENDUM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** After compliance with the requirements of this act, and a favorable vote of the voters participating in the referendum herein required, the governing body of Tabor City may annex the area described in Section 4 of this act.

**Sec. 2.** The governing body shall publish a notice once a week for four weeks in a newspaper having general circulation in the Town of Tabor City and the area to be annexed. The notice shall: (1) state the time and place for a public hearing to be held by the governing body for the purpose of giving the citizens of Tabor City and the area to be annexed an opportunity to express their views thereon; (2) describe by metes and bounds the area to be annexed; (3) state the reason and purpose of the proposed annexation, and the services to be furnished the area if annexed.

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After the public hearing, the governing body may adopt a resolution calling a referendum on the question of annexing the area. Notice of the election shall be published in a newspaper having general circulation in Tabor City and the area to be annexed, once a week for three weeks prior to the closing of the registration books for the referendum by the Board of Elections. The notice shall state the date and time of the referendum, the issue to be submitted to the voters, the location of the voting places, the hours of the election, and state that all qualified voters in Tabor City and in the area to be annexed shall be eligible to vote.

**Sec. 3.** The referendum shall be held and conducted in accordance with applicable laws governing elections in Tabor City. If a majority of those voting favor annexation, then after the date of certification of the results by the Board of Elections to the governing body of Tabor City, the territory described in Section 4 of this act shall be annexed to Tabor City, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the town, and shall be entitled to the same privileges and benefits as other parts of the municipality. The newly annexed territory shall be subject to city taxes levied for the fiscal year following the date of annexation.

**Sec. 4.** The area subject to annexation under this act is described as follows:

BEGINNING at the United States Geodetic Monument located in the North Carolina-South Carolina State line with coordinates North@142186.170 and East@2035466.200; thence from said beginning point with the North Carolina-South Carolina State Line North 44 degrees 40 minutes 02 seconds West 4142.47 feet to a State Line monument located in the State Line just North of West Sixth Street extended; thence North 18 degrees 45 minutes 49 seconds East 4,431.08 feet to a point located in the right of way of North Carolina Highway # 904; thence North 82 degrees 49 minutes 52 seconds East 6,489.01 feet to a point in Tara Road; thence South 14 degrees 39 minutes 44 seconds East 1,917.03 feet to a point; thence North 75 degrees 20 minutes 15 seconds East 1,560.59 feet to a point on the West side of Lake Tabor; thence South 28 degrees 51 minutes 37 seconds East 1,453.23 feet crossing U.S. Highway # 701 to a point; thence South 22 degrees 58 minutes 33 seconds West 8,280.86 feet to a point; thence North 89 degrees 55 minutes 15 seconds West 2041.35 feet to a State Line monument located to the South of U.S. Highway # 701 By-Pass; thence with the North Carolina-South Carolina State Line North 44 degrees 40 minutes 02 seconds West 3,377.30 feet to the beginning point, the United States Geodetic Monument Tabor.

**Sec. 5.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1787

## CHAPTER 1023

AN ACT DELETING FROM THE CHARTER OF THE CITY OF WINSTON-SALEM CERTAIN OUTMODED AND OUTDATED PROVISIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2A of the Charter of the City of Winston-Salem, being Section 1 of Chapter 11 of the 1965 Session Laws of North Carolina, defining the corporate limits of the City of Winston-Salem by metes and bounds, is hereby repealed. The corporate limits of the City of Winston-Salem shall at all times be as shown on the most recent map officially adopted by the Board of Aldermen of the City of Winston-Salem pursuant to the provisions of G.S. 160A-22. It is the purpose of this amendment to eliminate the requirement that the corporate limits of the City of Winston-Salem be set out by metes and bounds in a local act of the General Assembly, and to permit the boundaries prescribed in a map adopted pursuant to G.S. 160A-22 to become the official boundaries of the City of Winston-Salem.

**Sec. 2.** Section 8 of the Charter of the City of Winston-Salem, being Section 2 of Chapter 11 of the 1965 Session Laws of North Carolina, is hereby deleted. The City of Winston-Salem is hereby divided into eight wards to be known and designated as North Ward, Northeast Ward, East Ward, Southeast Ward, South Ward, Southwest Ward, West Ward and Northwest Ward. The boundaries of each of the above named wards shall be as fixed in the most recent map adopted by the Board of Aldermen of the City of Winston-Salem in accordance with the provisions of G.S. 160A-22 and G.S. 160A-23. It is the purpose of this section to eliminate the necessity of the ward boundaries for the City of Winston-Salem being prescribed by metes and bounds in a legislative enactment, and to substitute authority for the Board of Aldermen to fix the boundaries by the adoption of a map as authorized in G.S. 160A-22 and G.S. 160A-23.

**Sec. 3.** Section 26A of the Charter of the City of Winston-Salem, being Section 4 of Chapter 60 of the Private Laws of 1933, relating to discounts and penalties for early or late tax payments, is hereby repealed.

**Sec. 4.** Sections 45 through 53 of the Charter of the City of Winston-Salem, being Section 45 of Chapter 232 of the Private Laws of 1927, as amended, relating to City public schools, is hereby repealed.

**Sec. 5.** Sections 83 through 107A of the Charter of the City of Winston-Salem, being Article XV of Section 1 of Chapter 232 of the 1927 Private Laws, as amended, relating to municipal courts, is hereby repealed.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

H. B. 1841                      **CHAPTER 1024**

AN ACT TO CONTINUE SUPPLEMENTAL SCHOOL TAXES IN  
BUNCOMBE COUNTY IN EFFECT AFTER MERGER.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any merger or consolidation, or abolishment of city or county school administrative districts shall not affect any supplemental tax in effect in any school district in Buncombe County and such supplemental taxes shall continue in effect. Any supplemental school taxes levied, collected, or expended prior to the effective date of this act are hereby validated.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

S. B. 1330                      **CHAPTER 1025**

AN ACT TO PROVIDE FOR A NON-PARTISAN ELECTION FOR  
MEMBERS OF THE BOARD OF TRUSTEES OF THE FAIRMONT  
ADMINISTRATIVE SCHOOL UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Trustees of the Fairmont Administrative School Unit shall be composed of seven members who shall be elected for a four-year term of office by the qualified voters of the Unit at large as hereinafter provided.

At the time of the regular primary election for county officers to be held in 1974, there shall be elected four members of the Board of Trustees in a non-partisan election. There shall be no primary election. The names of the candidates shall be printed on a separate ballot without reference to any party affiliation. Candidates shall file notice of candidacy at the same time as candidates for county office, and the election shall be conducted, insofar as practicable, as elections for county officers; provided, however, that absentee ballots shall not be permitted.

Beginning with the election to be held under this act in 1974, and every four years thereafter, four members of the Board of Trustees shall be elected to serve for terms of four years. The four candidates receiving the highest number of votes shall be declared elected.

At the election to be held under this act in 1976, and every four years thereafter, three members of the Board of Trustees shall be elected for terms of four years. The three candidates receiving the highest number of votes shall be declared elected.

The members elected shall take office on July 1, following their election, and shall serve until their successors are elected and qualified. Any vacancy occurring on the Board for any cause shall be filled for the unexpired term by some person appointed by the remaining members of the Board.

**Sec. 2.** Mr. James R. Oliver, Mr. Kenneth Hardin and Mrs. Ellen Floyd, or their successors in case of a vacancy, shall continue to serve until July 1, 1976.

**Sec. 3.** All local and special acts, and all laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

S. B. 1331                      **CHAPTER 1026**

AN ACT TO PROVIDE FOR THE ELECTION OF THE RED SPRINGS BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The term of office of the present members of the Red Springs Board of Education shall expire as follows: Mr. Raymond M. Ammons, term to expire on the first regular meeting date in December, 1975, immediately following the municipal elections in November, 1975; Mr. Donald K. Watson, term to expire on the first regular meeting date in December, 1975, immediately following the municipal elections in November, 1975; Mr. C. T. Johnson, Jr., term to expire on the first regular meeting date in December, 1977; Mr. Edward K. Batchelor, term to expire on the first regular meeting date in December, 1977; and Mr. John A. Staton, term to expire on the first regular meeting date in December, 1977.

**Sec. 2.** At the regular municipal election immediately preceding the expiration of the terms of the members of the Red Springs Board of Education as set out in Section 1 of this act, there shall be elected to the Board of Education the number of members necessary to take the place of the members of such Board whose terms next expire. All members shall serve for a term of four years and until their successors are elected and qualified. The provisions of G.S. 163-279 shall govern as to the time of election of the members of the Red Springs Board of Education.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1974.

S. B. 500                      **CHAPTER 1027**

AN ACT TO REPEAL CERTAIN SECTIONS OF CHAPTER 161 OF THE NORTH CAROLINA GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Sections 161-11, 161-12, and 161-13 of Chapter 161 of the North Carolina General Statutes are repealed.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

S. B. 1023

CHAPTER 1028

AN ACT TO CLARIFY THE CLASSIFICATION OF SPECIAL NUCLEAR MATERIALS FOR AD VALOREM TAX PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-275(6) is hereby amended by rewriting the first sentence thereof to read as follows:

“(6) Special nuclear materials in any form being held by a manufacturer, fabricator, or processor (whether or not the owner thereof) for the purpose of or in the process of manufacture, fabrication, processing or delivery.”

**Sec. 2.** This act shall become effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

S. B. 1146

CHAPTER 1029

AN ACT RELATING TO THE CREATION OF A FOREST PRACTICES STUDY COMMITTEE.

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall be known as the North Carolina Forest Practices Study Committee Act.

**Sec. 2.** Policy of the State. Purpose of act:

(a) Recognizing that the forest makes a vital contribution to the State of North Carolina and the nation by providing jobs, products, tax base, wildlife habitat, watersheds, and recreation, it is hereby declared to be public policy of the State of North Carolina to maintain and enhance such benefits and resources.

(b) Recognizing that certain cultural and commercial operations are necessary for the maintenance and enhancement of the forest resources, it is further declared to be public policy of the State of North Carolina that such operations be conducted in such a manner as to improve the forest resources and to protect and enhance the environment.

(c) The purpose of the act is to direct the Secretary of the Department of Natural and Economic Resources to conduct studies, hold hearings, and make recommendations to the 1975 General Assembly concerning legislation:

(1) Designed to assure the continuous growing and harvesting of forest tree species and to protect the soil, air, and water resources, including, but not limited to, streams, lakes, and estuaries, and

(2) Designed to coordinate activities among State agencies that are concerned with the forest environment.

**Sec. 3.** Definitions. As used in this act:

(a) “Operation” means a forestry commercial or cultural activity relating to the growing, harvesting, or processing of timber crops; a forestry cultural activity relating to wildlife, watershed, or recreational resource management.

(b) “Forest land” means nonfederal public and privately owned lands of which at least ten percent is stocked by forest trees of any size, or formerly had such tree cover, and which is not currently developed for nonforest use.

(c) “Operator” means any person or other entity who conducts an operation as defined in paragraph (a) of this section.

(d) "Landowner" means an individual, combination of individuals, partnership, corporation, association, or other entity holding an interest in forest land.

(e) "Secretary" means the Secretary of the Department of Natural and Economic Resources.

**Sec. 4. Duties, Powers of the Secretary.** The Secretary, in carrying out the policy and purposes of this act, shall:

(a) Appoint a Forest Practices Act Study Committee for the purpose of holding hearings and making recommendations to the Secretary concerning the purposes of this act. The Committee shall be composed of 11 voting members. No less than six of the members may be private forest landowners, private forest operators, or authorized representatives of private forest landowners who engage in operations. All members of the Committee shall be qualified by education or experience in natural resource management. The Committee shall be appointed no later than 45 days following the passage of this act, and be discharged upon submission of their report as defined in Section 5(c).

(b) Appoint from the membership of the committee as outlined in Section 4(a) a chairman and vice-chairman.

(c) Upon receipt of recommendations from the Committee, prepare a report to the 1975 General Assembly concerning the need for legislation to regulate forest practices. The report will be due on the first day of the session and shall be presented to the Speaker of the House and the President of the Senate.

(d) Provide to the Committee necessary secretarial and professional natural resource management assistance.

**Sec. 5. Duties, Powers of the Committee.**

(a) The Committee shall hold no less than 4 public hearings, at least one public hearing in each of the geographic Forest Survey Units described in the 1966 United States Forest Service publication, "North Carolina's Timber," USFS Bulletin SE-5, page iv. Prior to holding public hearings, the Committee shall give proper notice in accordance with State administrative procedures.

(b) The chairman shall designate the time and place for each public hearing and each called meeting of the Committee. A majority of the Committee shall constitute a quorum for holding public hearings and for other meetings of the Committee. The chairman, or his designee, shall preside at each meeting.

(c) The Committee shall prepare and submit to the Secretary, no later than December 15, 1974, a report covering the need for legislation to regulate forest practices and, if necessary, specific recommendations concerning appropriate legislation which the Committee determines to be necessary to implement the findings of its study.

(d) The members of the Committee shall receive as compensation per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

S. B. 1152

CHAPTER 1030

AN ACT TO AMEND G.S. 115-117 AS IT APPLIES TO THE CITY OF LUMBERTON ADMINISTRATIVE SCHOOL DISTRICT TO PROVIDE THAT FOR PURPOSES OF THE THIRTY CENTS (30¢) PER ONE HUNDRED DOLLAR (\$100.00) SUPPLEMENTAL SCHOOL TAX, REAL AND PERSONAL PROPERTY SHALL BE ASSESSED FOR VALUATION AT FIFTY PERCENT (50%) OF ITS APPRAISED VALUE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-117, as the same appears in Replacement Volume 3A of the General Statutes of North Carolina, as applicable to the City of Lumberton Administrative School District, is hereby amended by adding at the end of the first paragraph thereof, a new sentence, to read as follows:

“And provided further that the County Commissioners of Robeson County shall collect a thirty cent (30¢) per one hundred dollar (\$100.00) supplemental school tax levy for the City of Lumberton Administrative School District upon fifty percent (50%) of the appraised value of all property located therein.”

**Sec. 2.** This act shall become effective upon ratification and apply only to the City of Lumberton Administrative School District.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

H. B. 1228

CHAPTER 1031

AN ACT TO AMEND ARTICLE 2, PART 5 OF CHAPTER 108 OF THE GENERAL STATUTES, TO PROVIDE FOR RECOVERY FROM CERTAIN PERSONS FUNDS PAID FOR MEDICAL ASSISTANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is hereby added at the end of Article 2, Part 5 of Chapter 108 of the General Statutes, as follows:

“§ 108-61.2. *Subrogation rights, withholding of information a misdemeanor.*—(a) To the extent of payments under this Part, the county involved shall be subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of assistance under this Part against any person. It shall be the responsibility of the county commissioners, with such cooperation as they shall require from the county board of social services and the county director of social services, to enforce this section through the services of the county attorney in accordance with attorneys' fee arrangements approved by the State Board of Social Services. The United States and the State of North Carolina shall be entitled to share in each net recovery under this section. Their shares shall be promptly paid under this section and their proportionate parts of such sum shall be determined in accordance with the matching formulas in use during the period for which assistance was paid to the recipient.

(b) It shall be a misdemeanor for any person seeking or having obtained assistance under this Part for himself or another to willfully fail to disclose to the county department of social services or its attorney the identity of any person or organization against whom the recipient of assistance has a right of recovery, contractual or otherwise.”

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

**H. B. 1379                      CHAPTER 1032**

AN ACT TO AMEND CHAPTER 14 OF THE GENERAL STATUTES OF NORTH CAROLINA BY THE ADDITION OF SECTION 14-118.4 TO INCLUDE THE CRIME OF EXTORTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 20 of Chapter 14 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new section as follows:

“§ 14-118.4. *Extortion.*—Any person who threatens or communicates a threat or threats to another with the intention thereby wrongfully to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and such person shall upon conviction be guilty of a felony.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1974.

**S. B. 590                      CHAPTER 1033**

AN ACT TO PROVIDE THAT PERSONS RESIDING IN A CITY ADMINISTRATIVE SCHOOL UNIT SHALL NOT PARTICIPATE IN ELECTIONS FOR MEMBERS OF THE ALAMANCE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** No person who resides within a city administrative school unit of any municipality in Alamance County shall be eligible to vote in any election for members of the Alamance County Board of Education or be eligible for election or appointment to the County Board of Education.

**Sec. 2.** This act shall not disqualify any of the present members of the Alamance County Board of Education from completing their term of office.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**S. B. 985                      CHAPTER 1034**

AN ACT TO AMEND G.S. 105-275 RELATIVE TO CLASSIFICATION OF PROPERTY STORED FOR SHIPMENT TO A FOREIGN COUNTRY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-275(1) is hereby amended by rewriting the same to read as follows:

“(1) Cotton, tobacco, other farm products, goods, wares, and merchandise held or stored for shipment to any foreign country, except any such products, goods, wares, and merchandise that have been so stored for more than 12 months on the date as of which property is listed for taxation. Such property shall be listed (by quantity only, and with a statement that it is being held for export) in the county in which it is located on the tax listing date, but shall not

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be assessed or taxed. On the next tax listing date, any such property which has not been exported shall be listed, assessed and taxed in the same manner as other taxable property. (The purpose of this classification is to encourage the development of the ports of North Carolina.)”

**Sec. 2.** This act shall be effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

S. B. 1410

CHAPTER 1035

AN ACT TO AMEND THE UNEARNED PREMIUM RESERVE REQUIREMENT FOR DOMESTIC TITLE INSURANCE COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-134.2 is hereby amended by adding at the end of said section a new sentence reading as follows:

“While said sums are so reserved they shall be withdrawn from the use of the insurer for its general purposes and impressed with a trust in favor of the holders of title policies and held available for reinsurance of the title policies in the event of insolvency of the insurer. Nothing herein contained shall preclude such an insurer from investing said reserve in investments authorized by law for such an insurer, and the income from such invested reserve shall be included in the general income of the insurer to be used by such insurer for any lawful purpose.”

**Sec. 2.** Subsections (a) and (b) of G.S. 58-134.3 are hereby amended by deleting from said subsections the date “June 19, 1969” and inserting in lieu thereof the date “January 1, 1974”.

**Sec. 3.** Subsection (c) of G.S. 58-134.3 is hereby rewritten to read as follows:

“(c) The aggregate of the amounts set aside in unearned premium reserves in any calendar year, pursuant to subsection (b) of this section, shall be reduced annually, at the end of each calendar year following the year in which the policy is issued, at the annual rate of one-twentieth of the aggregate of such amounts.”

**Sec. 4.** Subsection (d) of G.S. 58-134.3 is hereby rewritten to read as follows:

“(d) The entire amount of the unearned premium reserve held as of January 1, 1974, shall be added to the reserve as of that date and shall be released from said reserve and restored to net profits at the annual rate of one-twentieth of the said entire amount, beginning in the next ensuing calendar year.”

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**H. B. 1631                      CHAPTER 1036**

AN ACT TO AMEND G.S. 87-10 TO RAISE THE MONETARY LIMITS FOR LIMITED AND INTERMEDIATE GENERAL CONTRACTOR LICENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-10, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended on lines 12 and 13 by deleting the words and figures “three hundred thousand dollars (\$300,000)” and inserting in lieu thereof the words and figures “four hundred twenty-five thousand dollars (\$425,000)”.

**Sec. 2.** G.S. 87-10, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended on line 16 by deleting the words and figures “seventy-five thousand dollars (\$75,000)” and inserting in lieu thereof the words and figures “one hundred twenty-five thousand dollars (\$125,000).”

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**H. B. 1866                      CHAPTER 1037**

AN ACT TO AMEND G.S. 159-48(d) OF THE LOCAL GOVERNMENT BOND ACT BY PROVIDING THAT IMPROVEMENT OF EXISTING TELEPHONE SERVICES IS A PURPOSE FOR WHICH BONDS MAY BE ISSUED BY A LOCAL GOVERNMENT UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-48(d) is hereby amended by adding the following subdivision (6):

“(6) Improving existing systems or facilities for the transmission or distribution of telephone services.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**H. B. 1960                      CHAPTER 1038**

AN ACT TO INCREASE THE MEMBERSHIP OF THE BOARD OF COMMISSIONERS TO FIVE IN THE TOWN OF WAGRAM AND TO AUTHORIZE THE APPOINTMENT OF TWO MEMBERS TO SERVE UNTIL THE NEXT ELECTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any provision of Chapter 161, Private Laws of 1911 to the contrary, the Board of Commissioners of the Town of Wagram shall consist of five members who shall be elected for terms of two years beginning with the regular municipal election to be held in 1975. The elections shall be held and conducted as provided in Articles 23 and 24 of Chapter 163 of the General Statutes for non-partisan municipal elections decided by a simple plurality.

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**Sec. 2.** The Board of Commissioners of the Town of Wagram is hereby authorized to appoint two qualified voters of the Town to serve on the Town Board of Commissioners until their successors are elected and qualified in the 1975 municipal election.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

## H. B. 1976                      CHAPTER 1039

AN ACT TO PROVIDE FOR AN ELECTION IN TRYON TOWNSHIP, POLK COUNTY, TO ASCERTAIN THE WILL OF THE VOTERS AS TO WHETHER THE TRYON CITY BOARD OF EDUCATION SHALL BE ELECTED.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the May 7, 1974 primary election held in Polk County, there shall be submitted to the qualified voters residing within Tryon Township the question of whether the Tryon City Board of Education shall be elected by popular vote. There shall be printed on a separate ballot, to be submitted to the qualified voters residing within Tryon Township, Polk County, which shall contain substantially the following:

“For an elective Tryon City Board of Education to be elected by the qualified voters residing within Tryon Township.”

“Against an elective Tryon City Board of Education to be elected by the qualified voters residing within Tryon Township.”

**Sec. 2.** If the majority of the votes cast favor the popular election of the Tryon City Board of Education, the Tryon City Board of Education shall consist of five members to be elected on a nonpartisan basis by the qualified voters residing within Tryon Township at the November election of State and county officers to be held in November, 1974. Each candidate for nomination for membership on the Tryon City Board of Education shall file a notice of candidacy with the Board of Elections of Polk County on or before June 10, 1974. All candidates must be residents of Tryon Township. All candidates for nomination from Tryon Township shall file such notice of candidacy by noon on or before June 10, 1974 and shall pay a filing fee of ten dollars (\$10.00). The nomination and election of said members of the Tryon City Board of Education shall be held, conducted and supervised by the Board of Elections, and except as herein provided the General Election laws and regulations for the nomination and election of county officers, as set forth in Chapter 163 of the General Statutes, as amended, shall apply and govern as to the election. The three candidates receiving the highest number of votes in the election on November 5, 1974, shall be elected for a term of four years. The next two candidates receiving the highest number of votes shall be elected for a term of two years. Thereafter, biennially, at the time of the General Election, there shall be elected members to the Board to succeed those members whose terms expire, and who shall serve for a term of four years.

In the event that the membership to the Tryon City Board of Education is filled by popular election of the people residing within the Tryon Township, those candidates elected at the November, 1974 General Election shall take office on the first Monday in December following the election. The term of

office of the present members of the Tryon City Board of Education shall terminate upon the election and qualification of their successors.

All vacancies in the membership of the Tryon City Board of Education shall be filled as provided for in G.S. 115-24. At the first meeting of the new Tryon City Board of Education, or as soon thereafter as possible, the members of the Board shall elect one of their members as Chairman for a period of one year, or until his successor is elected and qualified. The Chairman of the Board of Education shall preside at the meetings of the Board, and in the event of his absence or sickness, the Board may appoint one of their members temporary Chairman. The newly elected Tryon City Board of Education shall have all of the powers and duties provided for county and city boards of education in Chapter 115 of the General Statutes.

**Sec. 3.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**H. B. 1978                      CHAPTER 1040**

AN ACT RELATING TO GAMES OF "BINGO" AND "SKILO" IN THE TOWN OF HENDERSON.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be lawful to play or operate raffles and games of "bingo" and "skilo" in the Town of Henderson which are sponsored by church, religious, civic, charitable, social, patriotic, fraternal or trade associations of the town.

**Sec. 2.** It shall be necessary to obtain a permit to conduct the same from the Chief of Police of the Town of Henderson or his designated representative before operating raffles and games of "bingo" and "skilo".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

**S. B. 1349                      CHAPTER 1041**

AN ACT TO AMEND G.S. 62-133(c) IN ORDER TO GRANT TO THE NORTH CAROLINA UTILITIES COMMISSION THE AUTHORITY, IN ITS DISCRETION, TO USE A CURRENT AS WELL AS A PAST TEST PERIOD IN ESTABLISHING PUBLIC UTILITY RATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-133(c) is hereby amended by adding thereto the following sentence:

"Unless otherwise ordered by the Commission, the test period shall be the 12 months beginning on the first day of the month following the date the rates are proposed to become effective."

so that as amended the subsection shall read as follows:

"(c) The public utility's property and its fair value shall be determined as of the end of the test period used in the hearing and the probable future revenues and expenses shall be based on the plant and equipment in operation at that time. Unless otherwise ordered by the Commission, the test period shall be the

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12 months beginning on the first day of the month following the date the rates are proposed to become effective.”

**Sec. 2.** Nothing in this act shall affect or apply to public utility rate proceedings pending before the North Carolina Utilities Commission on the effective date of this act.

**Sec. 3.** This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

## H. B. 1453

## CHAPTER 1042

### AN ACT TO AMEND THE NORTH CAROLINA CONSUMER FINANCE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-166(a) as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina is amended by striking the words and numerals “nine hundred dollars (\$900.00)” in the second line thereof and substituting in lieu thereof the words and numerals “fifteen hundred dollars (\$1500),” and by striking “G.S. 24-1.1” in the sixth line thereof and substituting in lieu thereof “Chapter 24.”

**Sec. 2.** G.S. 53-168(c) as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina is amended to read as follows:

“(c) Existing business. Notwithstanding the provisions of this section, any person, firm or corporation which, on December 31, 1973, was a licensee under this Article either as a licensee to make loans under the provisions of G.S. 53-173 or as a motor vehicle lender under G.S. 53-176.1, may surrender such license to the commissioner within 90 days after the effective date of this subsection and elect to become a licensee to make loans under either G.S. 53-173 or G.S. 53-176.1 but not both. Such license shall be issued by the commissioner without further application or investigation and the licensee shall be deemed a licensee under the category that it elects upon the surrender of its current license and the election.”

**Sec. 3.** G.S. 53-173 as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina is amended to read as follows:

“§ 53-173. *Maximum rate of charge; computation of charges; limitation on interest after judgment; limitation on interest after maturity of the loan; inapplicability of other sections.*—(a) Maximum rate of charge. Every licensee hereunder may contract for, compute, and receive on any loan of money, not exceeding fifteen hundred dollars (\$1500) in amount, charges at rates not exceeding two and one-half percent (2 1/2%) per month on that part of the unpaid principal balance of any loan not in excess of three hundred dollars (\$300.00) and one and one-half percent (1-1/2%) per month on any remainder of such unpaid principal balance.

(b) Computation of charges. Charges on loans made pursuant to this section shall not be paid, deducted, or received in advance. Such charges shall not be compounded but charges on loans shall (1) be computed and paid only as a percentage of the unpaid principal balance or portion thereof and (2) computed on the basis of the number of days actually elapsed; provided, however, if part or

all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 90 days before the making of the new loan contract. For the purpose of computing charges, a month shall be that period of time from one date in a month to the corresponding date in the following month but if there is no corresponding date, then to the last day of such following month, and a day shall be one-thirtieth of a month where computation is made for a fraction of a month. Any payment made on a loan shall be applied first to any accrued interest and then to principal, and any portion or all of the principal balance may be prepaid at any time without penalty.

(c) Limitation on interest after judgment. If judgment be obtained against any party on any loan made under the provisions of this section neither the judgment nor the loan shall carry, from the date of the judgment, any interest in excess of six percent (6%) per annum.

(d) Limitation of interest after maturity of loan. After the maturity date of any loan contract made under the provisions of this section and until the loan contract is paid in full by cash, new loan, refinancing or otherwise, no charges other than interest at six percent (6%) per annum shall be computed or collected from any party to the loan upon the unpaid principal balance of the loan.

(e) Inapplicability of other sections. The provisions of G.S. 53-173.1, G.S. 53-174 and 53-175 shall not apply to any loan made pursuant to the provisions of this section.

(f) Subject to the limitations contained in this Article as to maximum rates, the Commission may from time to time, upon the basis of changed conditions or facts, redetermine and refix any such maximum rates of charge, but, before determining or redetermining any such maximum rates, the Commission shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard and introduce evidence with respect thereto. The notice herein required may be given by mailing such notice to the offices of the licensees as shown in the records of the Commissioner of Banks. Any such changed maximum rates of charge shall not affect preexisting loan contracts lawfully entered into between any licensee and any borrower.”

**Sec. 4.** Chapter 53 of the General Statutes is amended by inserting a new section to be designated G.S. 53-173.1 to read as follows:

“§ 53-173.1. *Computations; other procedures.*—Every loan made pursuant to the provisions of this Article other than G.S. 53-173 shall be repayable in substantially equal consecutive monthly installments, and subject to the following:

(a) The charge for payment according to schedule shall be computed at the time the loan is made and when computed shall be added to the cash advance. A licensee shall compute monthly charges for a period of time less than one year at one-twelfth of the annual rate for each loan month and shall compute charges for a period of less than one loan month at one-thirtieth of one-twelfth of the annual rate for each day. A loan month is that period of time from one date in the month through the corresponding date in the next month. If there is no corresponding date, then the last day of the next month will be used. All payments made on account, except those applied to default or deferment charges, shall be applied to the unpaid installments in the order in which they are due.

(b) The licensee shall not fix a due date of the first installment of any loan contract providing for monthly installments for a term exceeding 45 actual days from the date of the loan. When the first payment of any such contract may be due on a date beyond a loan month defined above, a licensee will be permitted to make an additional charge for the number of days in excess of 30 or the number of days in excess of one loan month from the date of the loan, whichever is less. The charge for the extra days may be added to the amount of the first installment and shall be excluded in computing any rebate.

(c) If, as of an installment due date the payment dates of all unpaid installments are deferred for one or more full months and the maturity of the contract is extended for a corresponding period, the licensee may charge and collect a deferment charge, which shall not exceed that portion of the charge for payment according to schedule originally added to the cash advance attributable under the rule of seventy-eights (78's) or the sum of the digits principle to the first of the deferred monthly installment periods multiplied by the number of months in which no schedule payment has been made or in which no payment is required by reason of the deferment. The Banking Commission may promulgate any further rules and regulations which may be necessary with regard to the provisions of this subsection."

**Sec. 5.** G.S. 53-176.1 as the same appears in the 1973 Cumulative Supplement to the General Statutes of North Carolina is amended by deleting the first sentence of subsection (a) and by changing the second sentence to read as follows:

"Any person applying for a license as a motor vehicle lender shall meet all the requirements of G.S. 53-168."

**Sec. 6.** The last sentence of G.S. 53-179 as the same appears in the 1973 Cumulative Supplement to the General Statutes of North Carolina is rewritten to read as follows:

"Such loans granted inadvertently resulting in a total liability of fifteen hundred dollars (\$1500) or less, shall be adjusted to the rates applicable under the Article to a single loan of equivalent amount, and when the total liability on such loans is in excess of fifteen hundred dollars (\$1500), interest shall be adjusted to simple interest at six percent (6%) per annum on the entire obligation."

**Sec. 7.** G.S. 53-180 as the same appears in the 1973 Cumulative Supplement to the General Statutes of North Carolina is rewritten to read as follows:

"§ 53-180. *Limitations and prohibitions on practices and agreements.*—(a) Time and payment limitation. Except as otherwise provided in this Article, no licensee making a loan pursuant to G.S. 53-173 shall enter into any contract of loan under this Article providing for any scheduled repayment of principal more than 25 months from the date of making the contract if the cash advance is six hundred dollars (\$600.00) or less; nor more than 37 months from the date of making the contract if the cash advance is in excess of six hundred dollars (\$600.00). Every loan contract shall provide for repayment of the amount loaned in substantially equal installments, either of principal or of principal and charges in the aggregate, at approximately equal periodic intervals of time. Nothing contained herein shall prevent a loan being considered a new loan because the proceeds of the loan are used to pay an existing contract.

(b) No assignment of earnings. A licensee may not take an assignment of earnings of the borrower for payment or as security for payment of a loan. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and is revocable by the borrower. A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to the seller by an assignment of earnings.

(c) Limitation on default provisions. An agreement between a licensee and a borrower pursuant to a loan under this act with respect to default by the borrower is enforceable only to the extent that (1) the borrower fails to make a payment as required by the agreement, or (2) the prospect of payment, performance, or realization of collateral is significantly endangered or impaired, the burden of establishing the prospect of a significant endangerment or impairment being on the licensee.

(d) Prohibitions on discrimination. No licensee shall deny an extension of credit or discriminate in the fixing of the amount, duration, application procedures or other terms or conditions of such extension of credit because of the race, color, religion, national origin, sex or marital status of the applicant or any other person connected with the transaction.

(e) Limitation on attorney's fees. With respect to a loan made pursuant to the provisions of G.S. 53-173, the agreement may not provide for payment by the borrower of attorney fees.

(f) No real property as security. No loan made pursuant to the provisions of G.S. 53-173 shall be secured in any way by an interest in real property.

(g) Deceptive acts or practices. No licensee shall engage in any unfair method of competition or unfair or deceptive trade practices in the conduct of making loans to borrowers pursuant to this Article or in collecting or attempting to collect any money alleged to be due and owing by a borrower."

**Sec. 8.** G.S. 53-190 as the same appears in the 1973 Cumulative Supplement to the General Statutes of North Carolina is amended by striking the words and numerals "nine hundred dollars (\$900.00)" in the second line and substituting in lieu thereof the words and numerals "fifteen hundred dollars (\$1500)".

**Sec. 9.** Chapter 53 of the General Statutes is amended by inserting a new section to be designated as G.S. 53-173.2 to read as follows:

"§ 53-173.2. *Special rate.*—In lieu of making loans pursuant to G.S. 53-173, a licensee may make loans at a rate not in excess of one dollar (\$1.00) for each five dollars (\$5.00) of cash advance to the borrower up to the amount of one hundred dollars (\$100.00) and a period of at least 15 days must be allowed for repayment of each five dollars (\$5.00) cash advance. Such charges shall not be assessed by any subterfuge or device on any loan over one hundred dollars (\$100.00) or on any balance of one hundred dollars (\$100.00) or less when the original loan was greater than one hundred dollars (\$100.00). Provided, however, that if there is an unpaid balance on a loan made under this section, no further loan can be made by the licensee to the borrower until the unpaid balance has been paid in full."

**Sec. 10.** This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1974.

H. B. 1790

CHAPTER 1043

AN ACT TO ANNEX TERRITORY TO THE TOWN OF MESIC.

*The General Assembly of North Carolina enacts:*

**Section 1.** The corporate limits of the Town of Mesic are hereby enlarged by annexation of the following area:

BEGINNING in the center of highway, N. C. 304, at the head of Door's Creek (a tributary of Big Vandemere Creek) also being the southern terminus of the land - boundary of the Town of Mesic, and running down the West side of Door's Creek to its confluence with Big Vandemere Creek. Thence with the West and North sides of said creek to a point 1,000 feet west of highway N. C. 304. Then in a northerly direction in a straight line to the northwest corner of the C. W. Carawan land (Door's land). Thence easterly with said Carawan line to the James Ollison land (Wilson land). Thence northerly then easterly with James Ollison line to the Clyde Jones line. Then in a northerly direction following the Clyde Jones line to its intersection with T. D. Potter land. Then in a northerly then easterly direction with the T. D. Potter line to the A. J. Jones Canal, said Canal being the North and West boundary of the T. D. Potter land. Then with said Canal in a northerly then easterly direction to where it enters Gales Creek. Then along the South side of Gales Creek to Highway N. C. 304, being the North terminus of the Land - boundary of the Town of Mesic. Thence along and with the existing land boundary of said Town to the point of Beginning.

**Sec. 2.** From and after the ratification of this act, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of March, 1974.

S. B. 1174      **CHAPTER 1044**

AN ACT TO PROVIDE FOR THE ELECTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF CERRO GORDO AND TO APPOINT AN ADDITIONAL MEMBER.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of the Town of Cerro Gordo shall consist of five members. The Mayor of the Town shall be elected for a term of two years, and the members of the Board shall be elected as herein provided for staggered terms of four years.

**Sec. 2.** Beginning with the regular municipal election to be held in Cerro Gordo in 1975, the three candidates for Town Commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of each member expire, their successors shall be elected for terms of four years.

**Sec. 3.** The municipal elections shall be nonpartisan and decided by a simple plurality, and shall be held and conducted by the Columbus County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

**Sec. 4.** Rod Nance is hereby appointed as a member of the Town Board of Commissioners of Cerro Gordo to serve until the municipal election to be held in 1975.

**Sec. 5.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1305      **CHAPTER 1045**

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965 AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE, BY DELETING CHAPTER VIII RELATIVE TO A RECORDER'S COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter VIII of Chapter 713 of the Session Laws of 1965, as amended, is hereby further amended by deleting said Chapter in its entirety and reserving same for future use.

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1306

CHAPTER 1046

AN ACT TO AMEND CHAPTER 713 OF THE SESSION LAWS OF 1965, AS AMENDED, BEING THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO EMINENT DOMAIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 7.81, Subchapter B of Chapter VII of Chapter 713 of the Session Laws of 1965, as amended, is hereby further amended by inserting in the same sentence after the word “parks”, the following phrase:

“, and for all other purposes authorized by the provisions to G.S. 160A-241;”.

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1312

CHAPTER 1047

AN ACT TO ESTABLISH RESIDENCE DISTRICTS FOR THE PURPOSE OF ELECTING MEMBERS OF THE GATES COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Education of Gates County shall consist of five members who shall be elected for terms of four years by the voters of the entire County. The election shall be non-partisan, and no primary election shall be held, but the election shall be held at the time of the regular County primary.

**Sec. 2.** For the purpose of electing members to the Board of Education, the County is divided into five residence districts and herein described. One member shall be elected from each district, and the candidates must reside in the district from which they seek election but they shall be voted on by the voters of the entire County.

District I (Gatesville): Beginning at a point on the Chowan River, in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northern direction to a point where Cole's Creek crosses U.S. 158; thence proceeding in a westerly direction along U. S. 158 through White Oak to Roduco to a point where U. S. 158 intersects U. S. 13; thence continuing on U. S. 13 in a northerly direction to a point where county road 1221 intersects U. S. 13; thence continuing on county road 1221 to the Atlantic Coast Line Railroad and proceeding on said railroad in a northerly direction to county road 1217; thence proceeding down county road 1217 to a point where county road 1225 intersects county road 1217; thence proceeding down county road 1225 to county road 1220; thence proceeding on county road 1220 in a northerly direction to where county road 1220 intersects N. C. 37; thence proceeding on N. C. 37 a short distance to a point where county road 1303 intersects N. C. 37 at Buckland; thence continuing down county road 1303 in an easterly direction to a point where county road 1303 touches county road 1300; thence proceeding down county road 1300 in a southerly direction to Eason's Crossroads; thence continuing on a southerly direction on county road 1400 to a point where county road 1404 intersects county road 1400; thence proceeding in an easterly

direction down county road 1404 to a point where county road 1411 intersects county road 1404; thence proceeding in a southeasterly direction down county road 1411 to where said road intersects county road 1410; thence proceeding down county road 1410 in a southerly direction to a place where county road 1410 intersects N. C. 37; thence continuing across N. C. 37 to the mouth of Trotman Creek; thence continuing down Trotman Creek in a southerly direction to a place where Trotman Creek runs into Catherine's Creek; thence down Catherine's Creek in a southerly direction to a point where Catherine's Creek flows into the Chowan River; thence proceeding up the Chowan River in a northwest direction to the point where Sarem Creek flows into the Chowan River, at the beginning point.

District II (Eure): Beginning at a point on the Chowan River and proceeding due east to the point where county road 1221 intersects U. S. 13; thence proceeding south down said U. S. 13 to where U. S. 158 intersects U. S. 13 at Tarheel; continuing down U. S. 158 through Roduco to a point where Cole's Creek crosses U. S. 158; thence proceeding down Cole's Creek to Sarem Creek to the Chowan River; thence proceeding in a northwesterly direction to the beginning point, on Chowan River.

District III (Gates): Beginning at a point where the Virginia Line crosses the Chowan River; thence proceeding along the North Carolina-Virginia line in an easterly direction until the point where the Atlantic Coast Line Railroad intersects the State line; thence following said railroad to a point where the Atlantic Coast Line Railroad intersects county road 1308; proceeding down county road 1308 in an easterly direction to a point where county road 1311 intersects county road 1308; proceeding along county road 1311 in a southerly direction to a point where county road 1311 intersects county road 1304 at Hazelton; thence along county road 1304 in a southwesterly direction to a point where county road 1300 intersects county road 1304 at Willeyton; thence following county road 1300 in a southerly direction to a point where county road 1303 intersects county road 1300; thence from county road 1300 in a westerly direction along county road 1303 to Buckland, where county road 1303 intersects N. C. 37; thence proceeding south on N. C. 37 to a point where county road 1220 intersects N. C. 37; thence proceeding in a southwesterly direction along county road 1220 to a point where said road is intersected by county road 1225; thence proceeding along said county road 1225 in a westerly direction to a point where county road 1217 intersects county road 1225; thence proceeding along said county road 1217 to a point where county road 1217 intersects the Atlantic Coast Line Railroad; thence down said railroad in a southerly direction to a point where county road 1221 intersects said railroad; thence along county road 1221 to where it intersects U. S. 13; thence across said U. S. 13 and proceed due west to a point where this line reaches the Chowan River; thence following the Chowan River in a northerly direction to the Virginia Line.

District IV (Sunbury): Beginning at a point on the Virginia Line where the Atlantic Coast Line Railroad crosses the State Line; thence proceeding down the Atlantic Coast Railroad in a southerly direction to a point where county road 1308 crosses the said railroad; thence proceeding down county road 1308 to a point where county road 1311 intersects county road 1308; thence proceeding down county road 1311 to where county road 1311 intersects county road 1304 at Hazelton; thence continuing down county road 1304 in a southerly

direction to county road 1300 at Willeyton: thence continuing down county road 1300 in a southerly direction to Eason's Crossroads where county road 1403 intersects county road 1300; thence continuing down county road 1403 in a southerly direction: thence down said county road 1400 in a southerly direction to a point where county road 1400 is intersected by county road 1404; thence continuing down county road 1404 in an easterly direction to a point where county road 1411 intersects county road 1404; thence continuing down county road 1411 to a point where it intersects county road 1410; thence continuing in an easterly direction to a point where county road 1410 terminates and county road 1428 begins; thence continuing down county road 1428 in a westerly direction to Green Forks; thence in a due east direction from Green Forks to the Pasquotank County line; thence proceeding along the Gates County line in a northerly direction to a point where it touches the Virginia State Line; thence along said Virginia Line to the point where the Atlantic Coast Line Railroad crosses the Virginia Line, at the point of beginning.

District V (Hobbsville): Beginning at point on the Chowan River where Catherine's Creek intersects the river, going in a northerly direction along Catherine's Creek to a point where Trotman's Creek intersects Catherine's Creek; thence proceeding along Trotman's Creek in a northerly direction to a point where N. C. 37 is intersected by county road 1410; thence across N. C. 37 on county road 1410 in a northerly direction to a point where county road 1410 meets N. C. 32; thence across N. C. 32 on county road 1428 in an easterly direction to Green Forks on county road 1002; thence continuing due east to the Pasquotank County Line; thence along the Gates County Line in a southerly direction; thence in a westerly direction to the point on the Chowan River that is the beginning point.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

## S. B. 1329

## CHAPTER 1048

AN ACT TO ESTABLISH RESIDENCE DISTRICTS FOR THE PURPOSE OF ELECTING THE BOARD OF COUNTY COMMISSIONERS OF GATES COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** For the purpose of nominating and electing members of the Gates County Board of Commissioners beginning with the primary and election to be held in 1976, the County is divided into five districts as herein described. One commissioner shall be elected from each district and the candidates must reside in the district from which they seek nomination and election. The candidates shall be nominated and elected by the voters of the entire County.

**Sec. 2.** District I (Gatesville): Beginning at a point on the Chowan River, in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northern direction to a point where Coles's Creek crosses U. S. 158; thence proceeding in a westerly direction along U. S. 158 through White Oak to Roduco to a point where U. S. 158 intersects U. S. 13; thence continuing on U. S. 13 in a northerly direction to a point where county road 1221 intersects U. S. 13; thence continuing on county road 1221 to the Atlantic Coast Line Railroad

and proceeding on said railroad in a northerly direction to county road 1217; thence proceeding down county road 1217 to a point where county road 1225 intersects county road 1217; thence proceeding down county road 1225 to county road 1220; thence proceeding on county road 1220 in a northerly direction to where county road 1220 intersects N. C. 37; thence proceeding on N. C. 37 a short distance to a point where county road 1303 intersects N. C. 37 at Buckland; thence continuing down county road 1303 in an easterly direction to a point where county road 1303 touches county road 1300; thence proceeding down county road 1300 in a southerly direction to Eason's Crossroads; thence continuing on a southerly direction on county road 1400 to a point where county road 1404 intersects county road 1400; thence proceeding in an easterly direction down county road 1404 to a point where county road 1411 intersects county road 1404; thence proceeding in a southeasterly direction down county road 1411 to where said road intersects county road 1410; thence proceeding down county road 1410 in a southerly direction to a place where county road 1410 intersects N. C. 37; thence continuing across N. C. 37 to the mouth of Trotman Creek; thence continuing down Trotman Creek in a southerly direction to a place where Trotman Creek runs into Catherine's Creek; thence down Catherine's Creek in a southerly direction to a point where Catherine's Creek flows into the Chowan River; thence proceeding up the Chowan River in a northwest direction to the point where Sarem Creek flows into the Chowan River, at the beginning point.

District II (Eure): Beginning at a point on the Chowan River and proceeding due east to the point where county road 1221 intersects U. S. 13; thence proceeding south down said U. S. 13 to where U. S. 158 intersects U. S. 13 at Tarheel; continuing down U. S. 158 through Roduco to a point where Cole's Creek crosses U. S. 158; thence proceeding down Cole's Creek to Sarem Creek to the Chowan River; thence proceeding in a northwesterly direction to the beginning point, on the Chowan River.

District III (Gates): Beginning at a point where the Virginia line crosses the Chowan River; thence proceeding along the North Carolina-Virginia line in an easterly direction until the point where the Atlantic Coast Line Railroad intersects the State line; thence following said railroad to a point where the Atlantic Coast Line Railroad intersects county road 1308; proceeding down county road 1308 in an easterly direction to a point where county road 1311 intersects county road 1308; proceeding along county road 1311 in a southerly direction to a point where county road 1311 intersects county road 1304 at Hazelton; thence along county road 1304 in a southwesterly direction to a point where county road 1300 intersects county road 1304 at Willeyton; thence following county road 1300 in a southerly direction to a point where county road 1303 intersects county road 1300; thence from county road 1300 in a westerly direction along county road 1303 to Buckland, where county road 1303 intersects N. C. 37; thence proceeding south on N. C. 37 to a point where county road 1220 intersects N. C. 37; thence proceeding in a southwesterly direction along county road 1220 to a point where said road is intersected by county road 1225; thence proceeding along said county road 1225 in a westerly direction to a point where county road 1217 intersects county road 1225; thence proceeding along said county road 1217 to a point where county road 1217 intersects the Atlantic Coast Line Railroad; thence down said railroad in a southerly direction to a point where county road 1221 intersects said railroad; thence along county

road 1221 to where it intersects U. S. 13; thence across said U. S. 13 and proceed due west to a point where this line reaches the Chowan River; thence following the Chowan River in a northerly direction to the Virginia Line.

District IV (Sunbury): Beginning at a point on the Virginia Line where the Atlantic Coast Line Railroad crosses the State Line; thence proceeding down the Atlantic Coast Railroad in a southerly direction to a point where county road 1308 crosses the said railroad; thence proceeding down county road 1308 to a point where county road 1311 intersects county road 1308; thence proceeding down county road 1311 to where county road 1311 intersects county road 1304 at Hazelton; thence continuing down county road 1304 in a southerly direction to county road 1300 at Willeyton; thence continuing down county road 1300 in a southerly direction to Eason's Crossroads where county road 1403 intersects county road 1300; thence continuing down county road 1403 in a southerly direction; thence down said county road 1400 in a southerly direction to a point where county road 1400 is intersected by county road 1404; thence continuing down county road 1404 in an easterly direction to a point where county road 1411 intersects county road 1404; thence continuing down county road 1411 to a point where it intersects county road 1410; thence continuing in an easterly direction to a point where county road 1410 terminates and county road 1428 begins; thence continuing down county road 1428 in a westerly direction to Green Forks; thence in a due east direction from Green Forks to the Pasquotank County line; thence proceeding along the Gates County line in a northerly direction to a point where it touches the Virginia State Line; thence along said Virginia Line to the point where the Atlantic Coast Line Railroad crosses the Virginia Line, at the point of beginning.

District V (Hobbsville): Beginning at a point on the Chowan River where Catherine's Creek intersects the river, going in a northerly direction along Catherine's Creek to a point where Trotman's Creek intersects Catherine's Creek; thence proceeding along Trotman's Creek in a northerly direction to a point where N. C. 37 is intersected by county road 1410; thence across N. C. 37 on county road 1410 in a northerly direction to a point where county road 1410 meets N. C. 32; thence across N. C. 32 on county road 1428 in an easterly direction to Green Forks on county road 1002; thence continuing due east to the Pasquotank County Line; thence along the Gates County Line in a southerly direction; thence in a westerly direction to the point on the Chowan River that is the beginning point.

**Sec. 3.** This act shall not affect the terms of those persons presently serving on the Board of County Commissioners.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1336 CHAPTER 1049

AN ACT TO ABOLISH THE OFFICE OF CORONER IN CRAVEN AND DAVIDSON COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of coroner in Craven and Davidson Counties is hereby abolished effective December 2, 1974, and Chapter 152 of the General Statutes shall not thereafter be applicable to Craven or Davidson County.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1370 CHAPTER 1050

AN ACT TO VALIDATE THE RECORDING OF CERTAIN MAPS IN AVERY COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The provisions of North Carolina General Statutes 47-30 and 47-30.1 insofar as they apply to maps listed herein shall not be construed to invalidate any of said maps for failure of said maps to comply with the requirements of North Carolina General Statutes 47-30 and 47-30.1.

**Sec. 2.** Notwithstanding the provisions of North Carolina General Statutes 47-30 and 47-30.1 the maps and plats hereinafter listed shall be deemed to be duly proved, probated and recorded and to be valid.

**Sec. 3.** This act shall apply to the following maps and plats in the office of Register of Deeds of Avery County:

North Carolina: Book of Maps No. 1, pages 42, 93, 98, 9, 13, 24,  
99, 102, 12-1/2, 11, 39, 40, 41, 47, 51, 66, 67,  
85, 90, 104, 109, 108, 43, 86, 38, 8, 22, 23,  
12, 63, 87, 96, 38, 89, 35, 73, 79, 81, 101,  
20, 34, 27, 55, 91, 92, 58, 101, 29, 38, 88, 22,  
23, 12, 63, 87, 96, 89, 45, 70, 71, 74, 76, 16,  
30, 19, 10, 31, 48, 57, 49, 52, 75, 44, 75, 80,  
84, 22, 23, 27, 21, 34, 62, 73, 82, 33, 53, 54,  
62, 77, 106, 72, 12, 100, 103, 105, 107, 110,  
111, 39, 40, 56, 59, 66, 67, 42, 46, 60, 65, 68.  
Book of Maps No. 3, pages 11, 57, 80, 102, 51,  
65, 98, 15, 21, 19, 25, 39, 76, 73, 74, 86, 90,  
91, 115, 115A, 115B, 16, 104, 56, 13, 14, 20,  
22, 26, 28, 40, 41, 48, 55, 114, 34, 62, 67, 24,  
38, 44, 45, 46, 47, 52, 53, 63, 64, 70, 71, 72,  
77, 78, 79, 81, 82, 83, 84, 85, 88, 89, 87, 92,  
93, 94, 95, 96, 97, 103, 107, 108, 109, 110,  
111, 112, 106, 113, 49, 61, 69, 33, 75, 80, 12,  
17, 18, 29, 30, 31, 32, 35, 36, 37, 42, 27, 50,  
54, 59, 60, 68, 99, 100, 101, 23, 43, 105.  
Book of Maps No. 4, pages 47, 132, 140, 168,  
170, 236, 39, 211, 12, 16, 49, 50, 51, 52, 53,  
71, 76, 77, 78, 79, 80, 81, 82, 94, 108, 109,  
110, 111, 112, 113, 114, 115, 116, 117, 118,



S. B. 1339

**CHAPTER 1052**

AN ACT TO AMEND THE CHARTER OF THE CITY OF GREENSBORO, AS REVISED AND REORGANIZED BY CHAPTER 1137 OF THE SESSION LAWS OF 1959, AND AS AMENDED, TO GRANT AUTHORITY FOR JOINT PARTICIPATION WITH GUILFORD COUNTY IN COMMUNITY ACTION PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter IV, Subchapter B, Article 1 of the Charter of the City of Greensboro, as set forth in Section 1, Chapter 1137 of the Session Laws of 1959, and as amended by Chapter 700 of the Session Laws of 1973, is hereby amended by adding a new section following Section 4.53 as follows:

“Section 4.54. Authority to engage in community action programs jointly with Guilford County.

(a) The City of Greensboro, through its governing body, shall have the power and authority to enter into agreements with Guilford County for the purpose of providing joint participation in any undertaking involving community action programs for the general welfare and benefit of the citizens; provided that Guilford County has the separate power and authority to engage in any such programs.

(b) Under any such joint agreements, the City of Greensboro may participate financially or render such other assistance as may be mutually determined by said City of Greensboro and Guilford County, and such joint undertakings are hereby declared to be for a public purpose.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

H. B. 463

**CHAPTER 1053**

AN ACT TO TAX BANKS AS OTHER CORPORATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 8C, Schedule I-C. Excise Tax on Banks, of the General Statutes, including G.S. 105-228.11 through G.S. 105-228.20 as same appear in the 1972 Replacement Volume 2D of the General Statutes, is hereby repealed.

**Sec. 2.** G.S. 105-125, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting the words “banking and” immediately following the word “to” at the end of line 3.

**Sec. 3.** G.S. 105-130.7, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting subdivision (3), by renumbering subdivision (4) to be subdivision (3), by renumbering subdivision (5) to be subdivision (4) and changing the figure “(4)” in line 1 thereof to be “(3)”, and by renumbering subdivision (6) to be subdivision (5), and to change the figure “(4)” in line 14 thereof to “(3)”.

**Sec. 4.** G.S. 105-130.11, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting in subdivision (a)(2) the words “bank or banking association, trust company or any combination of such facilities or services subject to taxation under Article 8C of this Chapter;” and immediately following the word “Every” in line one.

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**Sec. 5.** G.S. 105-147, as same appears in the 1972 Replacement Volume 2D of the General Statutes, is amended by deleting the next to the last sentence in subdivision (7) which reads as follows: "Dividends received by a taxpayer from stock in any bank or trust company in this State taxed under the provisions of Article 8C of Subchapter I of this Chapter shall be deductible."

**Sec. 6.** G.S. 105-198 is amended by adding the following language at the end of the section: "Banks or banking associations, trust companies or any combination of such facilities or services shall be subject to the provisions of this Article for taxable years beginning on and after January 1, 1974."

**Sec. 7.** Article 2, Schedule B, License Taxes, of Chapter 105 of the General Statutes, is amended by adding a new section following G.S. 105-93 which shall read as follows:

"§ 105-94. *Banks.*—There is hereby imposed upon every bank or banking association, including each national banking association, that is organized and operating in this State as a commercial bank, an industrial bank, a savings bank, a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, be organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization, an annual privilege tax in the amount of \$30 for each \$1 million or fractional part thereof of total assets held as hereinafter provided. The assets upon which the tax is levied shall be determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar year as required by bank regulatory authorities; provided, however, where a new bank commences operations within the State there shall be levied and paid an annual privilege tax of \$100.00 until such bank shall have made four quarterly call reports of condition (consolidating domestic subsidiaries) for a single calendar year. The tax imposed hereunder shall be for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. Counties, cities and towns shall not levy a license or privilege tax on the businesses taxed under this section."

**Sec. 8.** This act shall become effective with respect to taxable years beginning on and after January 1, 1974.

**Sec. 9.** Nothing in this act shall be construed to relieve banks from excise tax in 1974 based on their net income earned during the year 1973, nor shall it affect any rights or liabilities of any bank arising prior to the effective date of this act.

**Sec. 10.** Banks, or banking associations, trust companies or any combination of such facilities or services that become subject to taxes levied upon tangible personal property by local taxing jurisdictions as a result of this act, shall have 90 days after the effective date of this act to list such tangible personal property with the local taxing jurisdictions at the fair market value of such property.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. B. 1220

CHAPTER 1054

AN ACT TO AMEND CHAPTER 546, SESSION LAWS OF 1963, TO DETERMINE THE DISTRIBUTION OF CERTAIN INCOME FROM THE BEVERAGE CONTROL STORES OF THE TOWN OF GRANITE FALLS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 546 of the Session Laws of 1963 is amended in Section 5 thereof, by deleting, on line 8, the word "not".

**Sec. 2.** Chapter 546 of the Session Laws of 1963 is further amended by striking subsection (c) of Section 5 thereof and substituting in lieu thereof the following:

"(c) Thirty percent (30%) to be given to the schools in the Granite Falls District to be distributed by the governing body of the Town of Granite Falls."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1974.

S. B. 1258

CHAPTER 1055

AN ACT TO INCORPORATE THE TOWN OF SHADY FOREST.

*The General Assembly of North Carolina enacts:*

**Section 1.** The territory and inhabitants of the area described in Section 2 of this act shall be and constitute a body politic and corporate under the name of the "Town of Shady Forest" and shall be vested with all the powers, rights, authority, privileges and immunities conferred upon municipal corporations by the Constitution and general laws of North Carolina.

**Sec. 2.** The corporate boundaries of the Town of Shady Forest, until changed in accordance with law, are as follows: Located in Colkins Neck, Shallotte Township, Brunswick County, beginning at a point in the western property line of the International Paper Company, approximately 2,000 feet from the Calabash River, and running thence with said property line S. 20° 30' E. 350 feet to a point; thence S. 75° 43' W. 4,885 feet to the property line of the W. M. Stanaland Estate; thence N. 23° 45' W. 550 feet; thence N. 78° E. 4,938 feet to the point of beginning, as shown on map showing a division of the D. E. Stanaland heirs.

**Sec. 3.** Mrs. John L. Foster is hereby appointed as Mayor of the Town of Shady Forest and shall serve until the regular municipal election to be held in 1975. Perry Lamb, Hamp Leonard, and Arthur Hundley are appointed as members of the Town Council and shall serve until the regular municipal election to be held in 1975.

**Sec. 4.** The municipal elections shall be nonpartisan and decided by a simple plurality and shall be held and conducted by the Brunswick County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes.

**Sec. 5.** Beginning with the regular municipal election to be held in 1975, a mayor and a Town Council of three members shall be elected by the qualified voters of the town, and they shall serve for terms of two years. Only qualified voters of the town shall be eligible to hold elective office.

**Sec. 6.** This act shall be effective upon ratification.

CHAPTER 1055      Session Laws—1973

In the General Assembly read three times and ratified, this the 29th day of March, 1974.

H. B. 750                      **CHAPTER 1056**

AN ACT TO LIMIT THOSE VOTING FOR THE MEMBERS OF THE WAKE COUNTY BOARD OF EDUCATION TO THE ELIGIBLE VOTERS RESIDING IN THE WAKE COUNTY SCHOOL ADMINISTRATIVE UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** From and after the effective date of this act no person residing within the Raleigh City School Administrative Unit shall be eligible to vote in any general or special election for any member or candidate for the Board of Education of Wake County.

**Sec. 2.** In the event that the whole or any part of the Raleigh City School Administrative Unit is extended, then any person residing within the Raleigh City School Administrative Unit by virtue of such extension shall automatically become ineligible to vote for any member or candidate of the Board of Education of Wake County.

**Sec. 3.** No person residing within the Raleigh City School Administrative Unit as the same now exists or as the same may exist after any extension of the Raleigh City School Administrative Unit shall be eligible for any appointment to fill any vacancy that may occur in the membership of the Board of Education of Wake County.

**Sec. 4.** This act shall become effective from and after February 1, 1975.

In the General Assembly read three times and ratified, this the 29th day of March, 1974.

H. B. 1900                      **CHAPTER 1057**

AN ACT TO AMEND G.S. 20-7(f) SO AS TO REWARD SAFE DRIVERS BY ELIMINATING THE REQUIREMENT FOR TAKING WRITTEN AND ROAD TESTS WHEN APPLYING FOR RENEWAL OF OPERATOR'S LICENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (f) of G.S. 20-7 is hereby amended by adding the following paragraph at the end thereof:

“Provided further, that no person who applies for the renewal of his operator's license shall be required to take a written examination or road test as a part of any such examination unless such person has been convicted of a traffic violation or had Prayer for Judgment continued with respect to any traffic violation within a four-year period immediately preceding the date of such person's renewal application or unless such person suffers from a mental or physical condition which impairs his ability to operate a motor vehicle.”

**Sec. 2.** The Department of Motor Vehicles shall monitor the occurrence of traffic violations within the State and submit yearly reports to the General Assembly. The effect of this act on the violation statistics of North Carolina drivers as of January 1, 1974, and each year thereafter shall be included in the yearly report to allow the objective evaluation of this act and its effect on North Carolina drivers.

**Sec. 3.** This act shall be in full force and effect from and after June 1, 1974, and shall expire June 1, 1977.

In the General Assembly read three times and ratified, this the 29th day of March, 1974.

**H. B. 2069                      CHAPTER 1058**

**AN ACT TO AMEND THE CHARTER OF THE TOWN OF FUQUAY-VARINA RELATING TO STREET AND SIDEWALK IMPROVEMENTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 20 of Chapter 167 of the Private Laws of 1915 is hereby rewritten as follows:

**“SEC. 20. STREET AND SIDEWALK IMPROVEMENTS**

(a) Street Improvements; assessment of cost. In addition to any authority which is now or may hereafter be granted by general law to the Town for making street improvements, the Town Council is hereby authorized to make street improvements and to assess the cost thereof against abutting property owners in accordance with the provisions of this Article.

(b) When petition unnecessary. The Town Council may order street improvements and assess the cost thereof, exclusive of the cost incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the finding by the Council as a fact:

- (1) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement, or
- (2) That it is in the public interest to connect two streets, or portions of a street already improved, or
- (3) That it is in the public interest to widen a street, or part thereof, which is already improved; provided, that assessments for widening any street or portions of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

(c) Street improvement defined. For the purpose of this Article, the term 'Street Improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, the acquisition of right-of-way and the construction or reconstruction of curb, gutters and street drainage facilities.

(d) Sidewalks; assessment of cost. In addition to any authority which is now or may hereafter be granted by the General Statutes to the Town for making sidewalk improvements, the Town Council is hereby authorized to order to be made or to make sidewalk improvements or repairs without petition according to standards and specifications of the Town, and to assess the total cost thereof against abutting property owners.

If a sidewalk is constructed on only one side of a street in a residential zone, the cost thereof may be assessed against a property abutting on both sides of the street, unless there already exists a sidewalk, on the other side of the street, the total cost of which has been assessed against the abutting property.

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(e) Assessment procedure. In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Town Council shall comply with the procedure provided in the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) Effect of assessment. The effect of the act of levying assessments under the authority of this Article shall for all purposes be the same as if assessed where levied under authority of the General Statutes of North Carolina.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of March, 1974.

S. B. 1231 CHAPTER 1059

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING ACCIDENTS TAKING PLACE OUTSIDE THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-36 is hereby repealed and Article 1 of Chapter 97 of the General Statutes is hereby amended by adding a new section 97-36.1 to read as follows:

“§ 97-36.1. *Accidents taking place outside State, employees receiving compensation from another state.*—Where an accident happens while the employee is employed elsewhere than in this State and the accident is one which would entitle him or his dependents or next of kin to compensation if it had happened in this State, then the employee or his dependents or next of kin shall be entitled to compensation (1) if the contract of employment was made in this State, or (2) if the employer's principal place of business is in this State; provided, however, that if an employee or his dependents or next of kin shall receive compensation or damages under the laws of any other state nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided for in this Article.”

**Sec. 2.** This act shall become effective July 1, 1974, and shall apply only to cases arising on and after July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

S. B. 1232 CHAPTER 1060

AN ACT TO EXTEND THE TIME LIMITATION FOR FILING AND REOPENING CERTAIN CLAIMS UNDER THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-24(a) is hereby amended by striking the words and punctuation “, and if death results from the accident, unless a claim be filed with the Commission within one year thereafter” from lines three and four of such subsection.

**Sec. 2.** G.S. 97-47 is hereby amended by striking the words “12 months” from line eight of such section and by substituting in lieu thereof the words “two years”.

**Sec. 3.** G.S. 97-58(c) is hereby amended by striking the words “one year” from lines two and five of such subsection and by substituting in lieu thereof the words “two years”.

**Sec. 4.** This act shall become effective on July 1, 1974, and shall apply only to cases arising on and after July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

S. B. 1235

**CHAPTER 1061**

AN ACT TO PROVIDE THAT MEDICAL EXPENSES IN ASBESTOSIS AND SILICOSIS CASES SHALL COME UNDER THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-59 is hereby amended by striking the words “medical and/or other treatment for asbestosis and/or silicosis shall not exceed a period of three years nor cost in excess of one thousand dollars (\$1,000) in any one year; and, provided further,” from lines 5 through 7 of such section.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 905

**CHAPTER 1062**

AN ACT TO PROVIDE FOR INHERITANCE BY ILLEGITIMATE CHILDREN BY, THROUGH AND FROM THEIR FATHERS WHERE PATERNITY HAS BEEN ESTABLISHED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 29-19 is hereby amended by designating the existing provisions thereof as subsection (a) and by adding thereto new subsections (b) and (c) to read as follows:

“(b) For purposes of intestate succession, an illegitimate child shall be entitled to take by, through and from:

- (1) Any person who has been judicially determined to be the father of such child pursuant to the provisions of G.S. 49-14 through 49-16;
- (2) Any person who has acknowledged himself during his own lifetime to be the father of such child in a written instrument executed or acknowledged before a certifying officer named in G.S. 52-6(c) and filed during his own lifetime in the office of the clerk of superior court of the county where either he or the child resides.

Notwithstanding the above provisions, no person shall be entitled to take hereunder unless he has given written notice of the basis of his claim to the personal representative of the putative father within six months after the date of the first publication or posting of the general notice to creditors. However, when the personal representative of a deceased putative father is a party to an action brought pursuant to G.S. 49-14 through 49-16 and such action provides the basis for a claim hereunder, this relationship to the action shall be sufficient notice.

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(c) Any person described under subdivision (b) (1) or (2) above and his lineal and collateral kin shall be entitled to inherit by, through and from the illegitimate child.

(d) Any person who acknowledges himself to be the father of an illegitimate child in his duly probated last will shall be deemed to have intended that such child be treated as expressly provided for in said will or, in the absence of any express provision, the same as a legitimate child.”

**Sec. 2.** G.S. 31-5.5 is hereby rewritten to read as follows:

“§ 31-5.5. *After-born or after-adopted child; illegitimate child; effect on will.*—(a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born illegitimate child to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born illegitimate child shall have the right to share in the testator’s estate to the same extent he would have shared if the testator had died intestate unless:

(1) The testator made some provision in the will for the child, whether adequate or not, or

(2) It is apparent from the will itself that the testator intentionally did not make specific provision therein for the child.

(b) The provisions of G.S. 28-153 through G.S. 28-158 shall be construed as being applicable to after-adopted children and to after-born children, whether legitimate or entitled illegitimate.

(c) The terms ‘after-born’, ‘after-adopted’ and ‘entitled after-born’ as used in this section refer to children born, adopted or entitled subsequent to the execution of the will.”

**Sec. 3.** G.S. 49-14 is hereby rewritten to read as follows:

“§ 49-14. *Civil action to establish paternity.*—(a) The paternity of a child born out of wedlock may be established by civil action. Such establishment of paternity shall not have the effect of legitimation.

(b) Proof of paternity pursuant to this section shall be beyond a reasonable doubt.

(c) Such action shall be commenced within one of the following periods:

(1) Three years next after the birth of the child; or

(2) Three years next after the date of the last payment by the putative father for the support of the child, whether such last payment was made within three years of the birth of such child or thereafter.

Provided, that no such action shall be commenced nor judgment entered after the death of the putative father.”

**Sec. 4.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 5.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1094                      **CHAPTER 1063**

AN ACT TO AMEND G.S. 135-4(a) SO AS TO MODIFY THE PROVISIONS FOR CREDITABLE SERVICE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-4(a), as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by striking out the date "July 1, 1963" in line 18 and inserting in lieu thereof the date "July 1, 1974".

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1243                      **CHAPTER 1064**

AN ACT TO EXEMPT THE HOUSE-TO-HOUSE SALE OF MAGAZINES FROM SALES TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 5 of Chapter 105 of the General Statutes is hereby amended by rewriting G.S. 105-164.13(28) to read as follows:

"(28) Sales of newspapers by resident newspaper street vendors and by newsboys making house-to-house deliveries and sales of magazines by resident magazine vendors making house-to-house sales."

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1460                      **CHAPTER 1065**

AN ACT TO DEFRAY THE COSTS OF REINSTATEMENT OF A CORPORATION SUSPENDED UNDER G.S. 105-230.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-232 is amended in the first paragraph, on line 10, by adding the following words after the parentheses and before the comma: "and upon payment to the Secretary of Revenue of a fee of twenty-five dollars (\$25.00) to cover the cost of reinstatement,".

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1461                      **CHAPTER 1066**

AN ACT TO AMEND G.S. 90-96 RELATING TO EXPUNCTION OF RECORDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-96, as the same appears in Volume 2C of the Cumulative Supplement of the General Statutes of North Carolina, is hereby amended by adding a new subsection (d) to read as follows:

"(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules III through VI of this Article, upon dismissal by the State of the charges against him, upon entry

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of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, such person may apply to the court for an order to expunge from all official records all recordation relating to his arrest, indictment or information, or trial. If the court determines, after hearing that such person was not over 21 years of age at the time any of the proceedings against him occurred, it shall enter such order. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1966                      **CHAPTER 1067**

AN ACT TO AMEND G.S. 55-52(i) OF THE BUSINESS CORPORATION ACT TO PROVIDE THAT TREASURY STOCK SHALL HAVE RIGHTS TO PARTICIPATE IN STOCK DIVIDENDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-52(i) is hereby amended by deleting the period after the word "rights" and inserting a comma in lieu thereof and by adding the following:

"except rights in share dividends paid pursuant to G.S. 55-51." to the end that said subsection in its entirety shall read as follows:

"(i) Treasury shares shall not carry voting or dividend rights, except rights in share dividends paid pursuant to G.S. 55-51." ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

S. B. 1308                      **CHAPTER 1068**

AN ACT TO AMEND G.S. 143-215.99 TO EXTEND THE DATE FOR REQUIREMENT OF OIL REFINERY PERMITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-215.99, as the same appears in Volume 3C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by striking in line 3 the date "July 1, 1974" and inserting in lieu thereof the date "July 1, 1975".

**Sec. 2.** G.S. 143-215.99 is hereby amended by deleting the word "Board" wherever it appears and by inserting in lieu thereof the word "Department".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1086

**CHAPTER 1069**

AN ACT TO REQUIRE INSURANCE COMPANIES WHICH HAVE PREVIOUSLY CANCELED OR TERMINATED AUTOMOBILE LIABILITY INSURANCE POLICIES ON POLICYHOLDERS WITHIN THIS STATE AND HAVE SUBSEQUENTLY REINSTATED OR RENEWED SUCH POLICIES, TO NOTIFY THE NORTH CAROLINA DEPARTMENT OF MOTOR VEHICLES OF THE SAME.

*The General Assembly of North Carolina enacts:*

**Section 1.** Whenever any insurance company writing automobile liability insurance within this State shall, pursuant to the laws of this State, notify the North Carolina Department of Motor Vehicles of the cancellation or termination of any automobile liability insurance policy, and such company shall subsequently reinstate or renew such policy, it shall become the duty of the insurance company renewing or reinstating the policy to immediately notify the North Carolina Department of Motor Vehicles of the renewal or reinstatement. Notification of the renewal or reinstatement shall constitute proof of continuous coverage to the North Carolina Department of Motor Vehicles, provided such reinstatement or renewal has occurred without any lapse coverage.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1380

**CHAPTER 1070**

AN ACT TO AMEND G.S. 1-305 AND G.S. 1-310 TO HARMONIZE THE TIME FOR ISSUANCE OF EXECUTIONS WITH THE PROVISIONS OF RULE 62 OF THE RULES OF CIVIL PROCEDURE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1-305 is amended by revising so much of the first sentence thereof as appears before the semicolon to read as follows: "Subject to the provisions of G.S. 1A-1 (Rule 62), the clerk of superior court shall issue executions on all unsatisfied judgments rendered in his court, which are in full force and effect, upon the request of any party or person entitled thereto and upon payment of the necessary fees".

**Sec. 2.** G.S. 1-310 is amended by deleting "and no executions against property shall issue until the end of the term during which judgment was rendered.", and inserting in lieu thereof "and no executions against property shall issue until 10 days after rendition of judgment."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1448

CHAPTER 1071

AN ACT TO PROHIBIT WHITE LIGHTS ON THE REAR OF MOTOR VEHICLE WHEN IN FORWARD MOTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Part 9 of Article 3 of Chapter 20 of the General Statutes is hereby amended by adding a new section to be designated G.S. 20-130.3 and to read as follows:

“§ 20-130.3. *Use of white or clear lights on rear of vehicles prohibited; exceptions.*—It shall be unlawful for any person to wilfully drive a motor vehicle in forward motion upon the highways of this State displaying white or clear lights on the rear of said vehicle. The provisions of this section shall not apply to the white light required by subsection 20-129(d) or so-called back-up lights lighted only when said vehicle is in reverse gear or backing. Violation of this section does not constitute negligence per se in any civil action.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1479

CHAPTER 1072

AN ACT TO AMEND G.S. 66-84 TO INCLUDE HOKE COUNTY WITHIN THE CLOSING-OUT SALES PROVISIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 66-84 as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes is hereby amended by inserting in line 4 thereof the word “Hoke” before the word “Iredell” so as to bring Hoke County within the provisions of Chapter 66, Article 17 of the General Statutes regarding closing-out sales.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1489

CHAPTER 1073

AN ACT TO AUTHORIZE ENFORCEMENT OF CHAPTER 62 AND OF THE RULES, REGULATIONS AND ORDERS OF THE UTILITIES COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 310 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G.S. 62-310 as paragraph (a) under G.S. 62-310 and by adding a new paragraph (b) as follows:

“(b) If any person or corporation shall furnish water or sewer utility service in violation of any provision of this Chapter applicable to water or sewer utilities, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall provide such service in violation of any rule, regulation or order of the Commission, the Commission shall apply to the resident Superior Court Judge of any judicial district where such person or corporation so operates, or to any Superior Court Judge holding court in such judicial district, for the enforcement of any provision of this Chapter or of any

rule, regulation or order of the Commission. The court shall have jurisdiction to enforce obedience to this Chapter or to any rule, regulation or order of the Commission by appropriate writ, order or other process restraining such person, corporation, or their representatives from further violation of this Chapter or of any rule, regulation or order of the Commission.”

**Sec. 2.** Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

**Sec. 3.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

## H. B. 1490                      CHAPTER 1074

AN ACT TO AUTHORIZE SETTING OF RATES IN SMALL UTILITY CASES BY LESS THAN FULL COMMISSION HEARING.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 81 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G.S. 62-81 as paragraph (a) under G.S. 62-81 and by adding a new paragraph (b) as follows:

“(b) In matters where the total annual revenue requested or where the total annual revenue increase requested is less than fifty thousand dollars (\$50,000), even though all or a substantial portion of the rate structure is being initially established or is under review, the Chairman of the Commission may refer the matter to a division of the Commission or to a Hearing Commissioner or to a Hearing Examiner for hearing.”

**Sec. 2.** Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

**Sec. 3.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

## H. B. 1508                      CHAPTER 1075

AN ACT TO MAKE TECHNICAL CHANGES IN ARTICLE 20 OF CHAPTER 163 OF THE GENERAL STATUTES, RELATING TO ABSENTEE VOTING.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-227(1), as enacted by Section 1, Chapter 536, 1973 Session Laws, is amended by striking the words “Affidavit and” from the caption of the form of Application For Ballots By Voter Who Expects To Be Absent From County In Which Registered On Primary or General Election Day.

**Sec. 2.** G.S. 163-227(4), as enacted by Section 1, Chapter 536, 1973 Session Laws, is amended by rewriting the first paragraph thereof to read:

“(4) Application forms issued by chairman of county board of elections. The chairman of the county board of elections shall be sole custodian of all absentee

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ballot application forms, but he, the secretary of the board or the executive secretary of the board, in accordance with one of the following two procedures, shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

(a) The chairman, secretary or executive secretary may deliver the form to a voter personally or to his near relative at the office of the county board of elections for the voter's own use; or

(b) The chairman, secretary or executive secretary may mail the form to a voter for his own use upon receipt of a written request from the voter or his near relative."

**Sec. 3.** G.S. 163-227(4) is amended by changing the word "his" in the second sentence of the second paragraph thereof to "the board's".

**Sec. 4.** G.S. 163-230(3)(b), as enacted by Section 1, Chapter 536, 1973 Session Laws, is amended by striking the words "in which his ballots are to be voted" from the first sentence thereof and inserting in lieu thereof the words "in which the voter is registered".

**Sec. 5.** G.S. 163-233, as enacted by Section 1, Chapter 536, 1973 Session Laws, is amended by striking the letter "X" in the last paragraph thereof and inserting in lieu thereof the letter "A".

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

## H. B. 1512

## CHAPTER 1076

### AN ACT TO EXCLUDE CERTAIN SERVICES FROM FUNERAL EXPENSES SUBJECT TO SALES AND USE TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-164.13(18) is hereby amended to read as follows:

"(18) Funeral expenses, including coffins and caskets, not to exceed one hundred and fifty dollars (\$150.00). All other funeral expenses, including gross receipts for services rendered, shall be taxable at the rate of three percent (3%). However, 'services rendered' shall not include those services which have been taxed pursuant to G.S. 105-164.4(4), or to those services performed by any beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family or personal representative of a deceased. Where coffins, caskets or vaults are purchased direct and a separate charge is paid for services, the provisions of this subsection shall apply to the total for both."

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1521                      **CHAPTER 1077**

AN ACT TO CLASSIFY AND EXCLUDE FROM THE AD VALOREM TAX BASE DOGS OWNED AS PETS AND NOT USED FOR THE PRODUCTION OF INCOME.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 12 of Chapter 105, as the same appears in the 1973 Supplement to Volume 2D of the General Statutes, is hereby amended by adding thereto a new subdivision (15) to G.S. 105-275 to read as follows:

“(15) Dogs, owned and held by individuals for their personal use and not otherwise used in connection with a business, trade or profession for the production of income.”

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1543                      **CHAPTER 1078**

AN ACT TO AMEND G.S. 90-95(g) TO INCLUDE THE CLINICAL TOXICOLOGICAL LAB, NORTH CAROLINA BAPTIST HOSPITAL, WINSTON-SALEM, UNDER THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-95(g), as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is amended on line two by deleting the words “or to” and by adding a comma after the word “Laboratory” and before the word “the”; and by inserting on line three after the word “Laboratory” and before the word “for” the words “or to the Clinical Toxicological Lab, North Carolina Baptist Hospital, Winston-Salem”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. B. 1546                      **CHAPTER 1079**

AN ACT TO ESTABLISH AN ADVISORY COUNCIL TO THE STATE BOARD OF EDUCATION TO BE CALLED “THE COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN”.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby established an Advisory Council to the State Board of Education to be called The Council on Educational Services for Exceptional Children.

**Sec. 2.** The Council shall consist of 17 members to be appointed as follows: Two members appointed by the Governor; two members of the Senate appointed by the Lieutenant Governor; two members of the House of Representatives appointed by the Speaker of the House; and 11 members appointed by the State Board of Education. Of those members of the Council appointed by the State Board, one member shall be selected from each congressional district within the State and each member so selected shall be a parent of a school-age child. The State Board shall designate as Chairman of the

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Council one of those individuals appointed by either the Governor, the Lieutenant Governor, or the Speaker of the House.

The appointments to the Council shall be made within 90 days after the ratification of this act. On the first Monday after 90 days after the ratification of this act has elapsed, the Council shall hold its first meeting. The term of appointment shall be for two years. Those initially appointed to the Council by the Governor, Lieutenant Governor, and Speaker of the House shall hold office until July 1, 1976, or until their successors are appointed and qualified. The term for members appointed by the State Board of Education shall be as follows:

(a) The members representing odd numbered Congressional Districts (1, 3, 5, 7, 9 and 11) shall be appointed for a term of four (4) years beginning July 1, 1974 and ending June 30, 1978.

(b) The members representing even numbered Congressional Districts (2, 4, 6, 8 and 10) shall be appointed for a term of two (2) years beginning July 1, 1974 and ending June 30, 1976.

(c) The full term for appointments subsequent to the initial appointments shall be for a term of four (4) years.

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly.

**Sec. 3.** The duties of the Council shall be to carry out periodic review of the exceptional child programs in the public schools and to receive complaints from citizens concerning all aspects of the operation of the public schools dealing with the exceptional child; to review these complaints; and to make recommendations, by majority vote, to the State Board of Education on corrective actions and programming.

**Sec. 4.** The Council shall meet in offices provided by the State Department of Public Instruction on a date to be agreed upon by the members of the Council from meeting to meeting; provided, however, that the Council shall meet no less than once every three months. The Department of Public Instruction shall provide the necessary secretarial and clerical staff and supplies to accomplish the objectives of the Council.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

## H. B. 1695

## CHAPTER 1080

### AN ACT RELATING TO THE GAME OF BINGO IN THE COUNTY OF ONSLOW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of Article 37 of Chapter 14 of the General Statutes, it shall be lawful for either civic, charitable, religious, non-profit organizations, or war veterans' organizations to sponsor or operate the game of "bingo" in Onslow County; provided, however, that no cash prizes shall be awarded to any of the participants.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

S. B. 89

**CHAPTER 1081**

AN ACT TO AMEND G.S. 20-138 RELATIVE TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND G.S. 20-139.1 RELATIVE TO THE ADMISSIBILITY OF CHEMICAL ANALYSIS FOR BLOOD ALCOHOL IN EVIDENCE IN TRIAL FOR DRIVING UNDER THE INFLUENCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-138 as same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by designating the existing section as subsection "(a)" and by adding a new subsection to be designated subsection "(b)" and to read as follows:

"(b) It is unlawful for any person to operate any vehicle upon any highway or any public vehicular area within this State when the amount of alcohol in such person's blood is 0.10 percent or more by weight and upon conviction if such conviction is a first conviction under this section, he shall be eligible for consideration for limited driving privileges pursuant to the provisions of G.S. 20-179(b); provided that second and subsequent convictions under this section shall be punishable as provided in G.S. 20-179(a) (2) and (3). An offense under this subsection shall be treated as a lesser-included offense of the offense of driving under the influence."

**Sec. 2.** G.S. 20-139.1 as same appears in the 1971 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by rewriting subsection "(a)" to read as follows:

"(a) In any criminal action arising out of acts alleged to have been committed by any person while driving or operating a vehicle while under the influence of intoxicating liquor or with a blood alcohol content of 0.10 percent or more by weight, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's breath or blood shall be admissible in evidence. The percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence, including other types of chemical analyses."

**Sec. 3.** G. S. 20-17(2) is hereby amended by striking the period appearing at the end thereof and adding the following "; or driving or operating a vehicle within this State with a blood alcohol level of 0.10 percent or more."

**Sec. 4.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 619

**CHAPTER 1082**

AN ACT TO LIMIT THE RAISING OR LOWERING OF THE FRONT OR REAR END OF PASSENGER VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-135.4 is hereby amended by adding a new subsection to be designated “(d)” and to read as follows:

“(d) The manufacturer’s specified height of any passenger motor vehicle shall not be elevated or lowered, either in front or back, more than six inches by modification, alteration, or change of the physical structure of said vehicle without prior written approval of the Commissioner of Motor Vehicles.

On or after January 1, 1975, no self-propelled passenger vehicle that has been so altered, modified or changed shall be operated upon any highway or public vehicular area without the prior written approval of the Commissioner.”

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 945

**CHAPTER 1083**

AN ACT TO REQUIRE COMPANIES WRITING AUTOMOBILE INSURANCE TO NOTIFY THE COMMISSIONER WHEN THEIR RELATIONSHIP WITH AN AGENCY IS TERMINATED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Whenever any insurance company writing automobile insurance shall cancel its relationship with a licensed North Carolina agent or whenever the relationship between the agent and the company is in any way terminated, the company shall notify the Commissioner of Insurance. The notification to the Commissioner shall state the number of policies written through the agent, as well as the number of automobiles covered by said policies, and shall further state whether or not the termination was at the instance of the company or of the agent. If the termination was at the instance of the company, then the notification shall further state the specific reason for the termination.

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 980

**CHAPTER 1084**

AN ACT TO REWRITE ARTICLE 4 OF CHAPTER 122 OF THE GENERAL STATUTES CONCERNING VOLUNTARY ADMISSIONS TO MENTAL HEALTH FACILITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4 of Chapter 122 of the General Statutes, as contained in the 1973 Cumulative Supplement to Chapter 122 of the General Statutes of North Carolina, is rewritten to read as follows:

“Article 4

“Voluntary Admission.

“§ 122-56.1. *Declaration of Policy.*—It is the policy of the State to encourage voluntary admissions to treatment facilities; and to assure that the admission of

any person with mental illness to a treatment facility shall be implemented under conditions that protect the dignity and rights of the person.

“§ 122-56.2. *Definitions.*—(a) The words ‘inebriety,’ ‘mental illness,’ and ‘qualified physician,’ as used in this Article, have the same meaning as they are given in G.S. 122-36, subsections (c), (d), and (f), respectively.

(b) The words ‘treatment facility,’ as used in this Article, mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or inebriety, and any community mental health clinic or center operated in conjunction with the State.

“§ 122-56.3. *Procedure for voluntary admissions.*—Any person who believes himself to be in need of treatment for mental illness or inebriety may seek voluntary admission to a treatment facility by presenting himself for evaluation to the facility. No physician’s statement is necessary, but a written application for evaluation or admission, signed by the person seeking admission, is required. The application shall acknowledge that the applicant may be held by the treatment facility for a period of 72 hours subsequent to any written request for release that he may make. At the time of application, the facility shall provide the applicant with the appropriate form for discharge. The application form shall be available at all times at all treatment facilities. However, no one shall be denied admission because application forms are not available. Any person voluntarily seeking admission to a treatment facility must be examined and evaluated by a qualified physician of the facility within 24 hours of presenting himself for admission. The evaluation shall determine whether the person is in need of treatment for mental illness or inebriety, or further psychiatric evaluation by the facility. If the evaluating physician or physicians determine that the person is not in need of treatment or further evaluation by the facility, or that the person will not be benefitted by the treatment available, the person shall not be accepted as a patient.

“§ 122-56.4. *Voluntary admission to Psychiatric Training and Research Center at North Carolina Memorial Hospital.*—Any person believing himself in need of treatment for mental illness or inebriety may voluntarily apply for admission to the Psychiatric Training and Research Center at the South Wing of the North Carolina Memorial Hospital in Chapel Hill in the same manner as he would apply for voluntary admission to any State hospital. Upon approval of his application by the Director of the Inpatient Service, the applicant may be admitted.

“§ 122-56.5. *Representation of minors and persons adjudicated non compos mentis.*—In applying for admission to a treatment facility, in consenting to medical treatment when consent is required, in giving or receiving any legal notice, and in any other legal procedure under this Article, a parent, person standing in loco parentis, or guardian shall act for a minor, and a guardian or trustee shall act for a person adjudicated non compos mentis.

“§ 122-56.6. *Voluntary admission not admissible in involuntary proceeding.*—The fact that one has been voluntarily admitted for treatment shall not be competent evidence in an involuntary commitment proceeding.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

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S. B. 1004 CHAPTER 1085

AN ACT TO AMEND G.S. 110-119 TO DISPENSE WITH REPORTS TO THE SOLICITOR UNLESS ABUSE OF A CHILD HAS BEEN FOUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-119(3), as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the first line thereof consisting of the words "Whether or not the director finds any child to be an abused child, he" and by substituting therefor the words "If the director finds evidence that a child has been abused, he", so that G.S. 110-119(3) will read as follows:

"(3) If the director finds evidence that a child has been abused, he shall immediately make a report in writing containing his findings along with a copy of the report of child abuse to the district attorney who shall determine whether criminal prosecution is appropriate and who may request the director to sign the appropriate criminal warrant."

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1005 CHAPTER 1086

AN ACT TO AMEND G.S. 110-117 TO INCLUDE CERTAIN ADDITIONAL PROFESSIONAL PERSONS AMONG THOSE WHO ARE TO REPORT CHILD ABUSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 110-117(5), as it appears in the 1971 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by inserting in the fifth line thereof, immediately after the comma which follows the word "officer", the following:

"mental health worker, psychologist, public health worker,"  
so that G.S. 110-117(5) will read as follows:

"'Professional person' means a physician, surgeon, dentist, osteopath, optometrist, chiropractor, podiatrist, physician-resident, intern, a registered or practical nurse, hospital administrator, Christian Science practitioner, medical examiner, coroner, social worker, law-enforcement officer, mental health worker, psychologist, public health worker, or a school teacher, principal, school attendance counselor or other professional personnel in a public or private school."

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1018                      **CHAPTER 1087**

AN ACT TO MAKE TECHNICAL AMENDMENTS TO G.S. 55-31(a) AND (c) AND G.S. 55-50(1), THE BUSINESS CORPORATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-31(a), as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended on line eight by deleting the words "in the management of the corporation".

**Sec. 2.** G.S. 55-31(c), as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended to read as follows:

"(c) The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility or liability imposed on him by law; and any resolutions adopted or other action taken by any such committee within the scope of the authority delegated to it by the board of directors shall be deemed for all purposes to be adopted or taken by the board of directors."

**Sec. 3.** 55-50(1), as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby amended on lines 21 and 22 by deleting the words "insofar as" from the beginning of clauses (ii) and (iii).

**Sec. 4.** G.S. 55-50(1), as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby further amended on line 24 by deleting the word "reasonable" and inserting in lieu thereof the word "reasonably".

**Sec. 5.** G.S. 55-50(1), as the same appears in Volume 2B of the 1973 Cumulative Supplement to the General Statutes of North Carolina, is hereby further amended on line 22 by inserting immediately following the letters "(iii)" the words and letters "the payment of dividends would be a breach of a bona fide agreement between the corporation and its creditors restricting the payment of dividends, or (iv)".

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1042                      **CHAPTER 1088**

AN ACT TO REPEAL G.S. 20-347(b) PERTAINING TO RECORDING ODOMETER READING BY THE DEPARTMENT OF MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-347(b) is hereby repealed.

**Sec. 2.** Redesignate existing sections G.S. 20-347(c) and (d) as (b) and (c) respectively.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1060

**CHAPTER 1089**

AN ACT TO AMEND G.S. 20-109 RELATIVE TO ALTERING OR CHANGING AN ENGINE OR OTHER NUMBER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-109 is hereby rewritten to read as follows:

“§ 20-109. *Altering or changing engine or other numbers.*—(a) It shall be unlawful and constitute a misdemeanor for:

(1) Any person to wilfully deface, destroy, remove, cover, or alter the manufacturer's serial number, transmission number, or engine number; or

(2) Any vehicle owner to knowingly permit the defacing, removal, destroying, covering, or alteration of the serial number, transmission number, or engine number; or

(3) Any person except a licensed vehicle manufacturer as authorized by law to place or stamp any serial number, transmission number, or engine number upon a vehicle, other than one assigned thereto by the Department; or

(4) Any vehicle owner to knowingly permit the placing or stamping of any serial number or motor number upon a motor vehicle, except such numbers as assigned thereto by the Department.

A violation of this subsection shall be punishable by a fine or imprisonment not to exceed two years, or both, in the discretion of the court.

(b) It shall be unlawful and constitute a felony for:

(1) Any person, with intent to conceal or misrepresent the true identity of the vehicle, to deface, destroy, remove, cover, alter, or use any serial or motor number assigned to a vehicle by the Department; or

(2) Any vehicle owner, with intent to conceal or misrepresent the true identity of the vehicle, to permit the defacing, destruction, removal, covering, alteration, or use of a serial or motor number assigned to a vehicle by the Department; or

(3) Any vehicle owner, with the intent to conceal or misrepresent the true identity of a vehicle, to permit the defacing, destruction, removal, covering, alteration, use, gift, or sale of any manufacturer's serial number, serial number plate, or any part or parts of a vehicle containing the serial number or portions of the serial number.

A violation of this subsection shall be punishable by a fine of not less than two thousand dollars (\$2,000) or imprisonment for not more than five years, or both, in the discretion of the court.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1066

**CHAPTER 1090**

AN ACT TO CHANGE THE NAME OF THE COMMISSION FOR MEDICAL FACILITY SERVICES AND LICENSURE TO THE NORTH CAROLINA MEDICAL CARE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Articles 13, 13A, 13B and 13C of Chapter 131 of the General Statutes as the same appear in the 1964 Replacement Volume 3B of the General Statutes and the 1973 Cumulative Supplement to Volume 3B are amended by striking out the words "Commission for Medical Facility Services and Licensure" wherever these words appear therein and substituting therefor the words "North Carolina Medical Care Commission".

**Sec. 2.** Part 10, Article 3, of Chapter 143B of the General Statutes, as the same appears in the 1973 Interim Supplement to the 1964 Replacement Volume 3C of the General Statutes is amended by striking out the words "Commission for Medical Facility Services and Licensure" wherever these words appear therein and substituting therefor the words "North Carolina Medical Care Commission".

**Sec. 3.** In any law of this State or in any rule or regulation any mention of, or words referring to, the Commission for Medical Facility Services and Licensure shall be deemed to mean the North Carolina Medical Care Commission.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1369

**CHAPTER 1091**

AN ACT TO AMEND THE NORTH CAROLINA BIOLOGICAL ORGANISM ACT (G.S. 106-65.42 et seq.).

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4(d) of Chapter 106 of the North Carolina General Statutes, known as the North Carolina Biological Organism Act, is amended by adding at the end thereof a new G.S. 106-65.49 as follows:

"§ 106-65.49. *Act not applicable in certain cases.*—The provisions of this act and/or regulations promulgated hereunder shall not apply to:

(1) Any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license issued pursuant to Section 351 of the Public Health Service Act (42 USC Section 262) and regulations promulgated thereunder;

(2) Any finished virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product or other biological product shipped prior to licensing for development or investigational purposes in compliance with the requirements of the Federal Food, Drug and Cosmetic Act (21 USC Section 301 et seq.) or the Animal Virus, Serum, and Toxin Law of March 4, 1913, (37 Stat. 832; 21 USC Section 151 et seq.) and rules and regulations promulgated thereunder; and

(3) Any etiological agent shipped in accordance with regulations promulgated under Section 361 of The Public Health Service Act (42 USC Section 264)."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. B. 1404

**CHAPTER 1092**

**AN ACT RELATING TO THE FEES OF THE BOARD OF EXAMINERS IN OPTOMETRY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-118.10, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is amended in the second line of the fourth paragraph thereof by striking the word and number "April 1", and substituting in the place thereof, the word and number "January 31".

**Sec. 2.** G.S. 90-123, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten as follows:

"§ 90-123. *Fees.*—In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Examiners in Optometry, said Board is hereby authorized to charge and collect fees established by its rules and regulations not exceeding the following:

- |  |          |
|--|----------|
| (1) Each application for general optometry examination   | \$75.00  |
| (2) Each general optometry license renewal, which fee shall be annually fixed by the Board and not later than December 15 of each year it shall give written notice of the amount of the renewal fee to each optometrist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such optometrist | \$75.00  |
| (3) Each provisional license   | \$50.00  |
| (4) Each intern permit or renewal thereof  | \$50.00  |
| (5) Each certificate of license to a resident optometrist desiring to change to another state or territory   | \$15.00  |
| (6) Each license issued to a practitioner of another state or territory to practice in this State  | \$75.00  |
| (7) Each license to resume the practice issued to an optometrist who has retired from the practice of optometry or who has removed from and returned to this State   | \$75.00" |

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1396 CHAPTER 1093

AN ACT TO AMEND G.S. 14-258.1 TO APPLY TO MENTAL INSTITUTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-258.1, as the same appears in the 1973 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, is hereby amended by inserting in line two after the word “charitable” the word “, mental”; by inserting in line five after the word “charitable” the word “, mental”; and by striking out of line six the word “narcotic” and inserting in lieu thereof the words “controlled substances included in Schedules I through VI contained in Article 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1551 CHAPTER 1094

AN ACT TO AMEND G.S. 163-30.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-30, as same appears in the 1973 Supplement to Volume 3D of the General Statutes of North Carolina, is hereby amended by rewriting the third paragraph thereof to read as follows:

“No person, while acting as a member of a county board of elections, shall serve as a state, district or county campaign manager or treasurer of any candidate in a primary or election or as a chairman of any state, district or county political organization.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1584 CHAPTER 1095

AN ACT TO REQUIRE THE SURRENDER OF TITLES TO SALVAGE VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of G.S. Chapter 20 is hereby amended by adding a new section, G.S. 20-109.1 thereto, to read as follows:

“§ 20-109.1. *Surrender of titles to salvage vehicles.*—(a) A vehicle shall be deemed to be a salvage vehicle:

(1) When an insurance company as a result of having paid a total loss claim acquires title to a vehicle, and obtains possession or control of a vehicle, for any cause other than theft; or

(2) When an insurance company has acquired title to and obtains possession of a vehicle in settlement of a theft loss claim, and upon recovery of the vehicle it is determined that the vehicle has been damaged to the extent that it would be considered a total loss under the provisions of comprehensive and collision insurance.

If the salvage vehicle was registered in North Carolina, or if the loss or damages occurred in North Carolina, or if the sale of the salvage vehicle takes place in North Carolina then the insurance company shall, within three days after sale of the salvage vehicle, forward to the Department of Motor Vehicles the certificate of title or the comparable ownership document issued by the jurisdiction wherein the vehicle was last registered. The certificate of title or comparable ownership document shall be properly assigned to the insurance company by the vehicle owner and the insurance company shall execute an assignment of title designating the purchaser. Subsequent transfers of ownership shall be on forms provided by the Department; and such forms shall be mailed by the Department to the purchaser at the address furnished in the assignment of title from the insurance company. The form shall be considered as proof of ownership for the purpose of G.S. 20-61. In the event the salvage vehicle is rebuilt, an application for reissuance of the title shall be made on a form prescribed by the Department, and the application shall be accompanied by such supporting information as the Department may require.

(b) Any person acquiring or having possession of any salvage vehicle, regardless of the source and conditions of acquisition, shall immediately forward to the Department the certificate of title or comparable ownership document issued by the jurisdiction wherein the vehicle was last registered, with properly executed assignments and reassignments of such title or ownership document. Subsequent transfers of ownership and reissuance of the title shall be as provided for in subsection (a) hereof.

(c) It shall be unlawful for any person, other than a law enforcement officer in the performance of his official duties, to operate any rebuilt salvage vehicle on a street or highway prior to the application for reissuance of title being accepted and approved by the Department.

(d) A violation of any provision of this section shall constitute a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) or imprisonment for not more than two years, or both, in the discretion of the court."

**Sec. 2.** G.S. 20-72(b) is hereby amended by adding the following paragraph at the end thereof:

"The title to a salvage vehicle shall be forwarded to the Department as provided in G.S. 20-109.1."

**Sec. 3.** G.S. 20-75 is hereby amended by adding a new paragraph at the end thereof to read as follows:

"The title to a salvage vehicle shall be forwarded to the Department as provided in G.S. 20-109.1."

**Sec. 4.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1594                      **CHAPTER 1096**

AN ACT TO AMEND G.S. 113-104 WITH RESPECT TO HUNTING WITH UNPLUGGED SHOTGUNS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-104, as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by changing the period following the word “combined” at the end of the first sentence of the fourth unnumbered paragraph to a semicolon and by adding thereafter the following:

“provided, that this sentence shall not apply to any person while lawfully hunting on a licensed ‘controlled shooting preserve’ as defined by G.S. 113-84(7).”

**Sec. 2.** This act shall become effective on the date of its ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1595                      **CHAPTER 1097**

AN ACT TO PROVIDE FURTHER PROTECTION FOR BEAR AND WILD TURKEY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-95.2, as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by adding a new paragraph at the end thereof to read as follows:

“Any person killing a bear, wild turkey or antlerless deer shall make a report of such kill to the Wildlife Resources Commission. The Commission is authorized and empowered by appropriate regulations to prescribe the method of making such report and the contents thereof, and to require positive identification of the carcass of the kill, by tagging or otherwise, pending completion of the report.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1597                      **CHAPTER 1098**

AN ACT TO PREVENT THE SPREAD OF DISEASE AMONG NATIVE POPULATIONS OF WILD TURKEY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-105 as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by adding a new paragraph at the end thereof to read as follows:

“It shall be unlawful for any person to release any domestically propagated or pen-raised wild turkey (*Meleagris gallopavo*) for stocking purposes.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1699 CHAPTER 1099

AN ACT TO PROVIDE STAGGERED TERMS FOR THE STOKES COUNTY BOARD OF COMMISSIONERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of County Commissioners of Stokes County shall consist of five members who shall be nominated and elected for staggered terms of four years as herein provided.

Beginning with the general election to be held in Stokes County in 1974, the three candidates receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. B. 1864 CHAPTER 1100

AN ACT TO INCORPORATE THE RURAL HALL SANITARY DISTRICT INTO A MUNICIPALITY TO BE KNOWN AS THE TOWN OF RURAL HALL.

*The General Assembly of North Carolina enacts:*

**Section 1.** The inhabitants in the area hereinafter described are hereby constituted a body politic and corporate under the name of the "Town of Rural Hall", and are hereby vested with all the powers, rights, privileges, immunities, and authority granted by the Constitution and general laws of this State.

**Sec. 2.** The corporate boundaries of the Town of Rural Hall shall be: BEGINNING at an iron stake at the point of intersection of the western right-of-way line of N. C. Highway No. 66 (Broad Street) with the southern right-of-way line of Wall Street and running thence with the south right-of-way line of Wall Street N 87° - 00' W 450.0 Ft. to an iron stake; thence S 0° - 48' E 291.30 Ft. to an iron stake in the north line of W. O. Cox; thence with the said Cox N 86° - 40' W 1201.84 Ft. to an iron stake in the eastern right-of-way line of the Southern Railway Co., the said right-of-way line being 50.0 Ft. from the center of the tract; thence along the eastern right-of-way line of the Southern Railway Co. the following courses and distances: N 3° - 07' W 87.08 Ft. to a stake; N 7° - 45' W 100.00 Ft. to a stake; N 14° - 50' W 103.51 Ft. to an iron stake in the southern right-of-way line of Wall Street; thence crossing Wall Street N 22° - 30' W 67.60 Ft. to an iron stake in the northern right-of-way line of Wall Street; thence along the northern right-of-way line of Wall Street S 87° - 00' E 735.0 Ft. to an iron stake 400.0 Ft. west of the western right-of-way line of Pilot View Street; thence parallel with and 400.0 Ft. west of the western right-of-way line of Pilot View Street N 3° - 00' E 660 Ft. to an iron stake in the southern right-of-way line of North Street; thence with the southern right-of-way line of North Street N 88° - 30' W 310.0 Ft. to an iron stake 150.0 Ft. west of the western right-of-way line of Payne Street; thence parallel with and 150.0 Ft. west of the western right-of-way line of Payne Street N 2° - 00' E 550.0 Ft. to an iron stake at the northwestern corner of Lot No. 33 of Rural Terrace, the said iron stake being 150.0 Ft. north of the northern right-of-way line of Cook

Street; thence parallel with and 150.0 Ft. north of the northern right-of-way line of Cook Street S 88° - 30' E 460.0 Ft. to a stake 450.0 Ft. W of the center of N. C. Highway No. 66 (Broad Street) the said 450.0 Ft. being measured at right angles to the said Highway; thence parallel with and 450.0 Ft. west of the center of N. C. Highway No. 66 (Broad Street) N 16° - 00' W 1870.0 Ft. to a stake in Mrs. John McCuiston's north line; thence with the said McCuiston's north line S 86° - 30' W 190.0 Ft. to a stake at the center of Paso Street; thence with the center of Paso Street the following courses and distances: S 39° - 25' W 165.0 Ft. to a stake; S 33° - 59' W 214.33 Ft. to a stake; S 28° - 57' W 128.53 Ft. to a stake; S 15° - 49' W 125.92 Ft. to a stake; thence along the rear line of Lots 32 thru 38 inclusive of Rural Estates, the following courses and distances: N 71° - 49' W 236.64 Ft. to an iron stake; N 82° - 27' W 200.00 Ft. to an iron stake; S 80° - 43' W 488.02 Ft. to a stake in the center of the Southern Railway Co. track; thence with the center of the Southern Railway Co track the following courses and distances: N 9° - 27' E 1033.77 Ft. to a stake; N 8° - 30' E 100.0 Ft. to a stake; N 5° - 30' E 100.0 Ft. to a stake; N 1° - 21' W 100.0 Ft. to a stake; N 2° - 43' W 100.0 Ft. to a stake; N 7° - 10' W 111.19 Ft. to a stake; thence along the northern line of Lot No. 49 of Rural Estates and along the northern right-of-way line of Park Street N 83° - 20' E 882.84 Ft. to an iron stake in the western right-of-way line of Church Street; thence with the western right-of-way line of Church Street the following courses and distances: N 6° - 00' W 500.0 Ft. to a stake; N 8° - 30' W 260.0 Ft. to an iron stake in the southern right-of-way line of Maple Street; thence along the southern right-of-way line of Maple Street and the said line projected across the Southern Railway Co. track S 82° - 45' W 1240.0 Ft. to a stake in the center of Grassy Creek; thence down the center of Grassy Creek S 4° - 27' W 40.0 Ft. to a stake; thence N 85° - 33' W 340.0 Ft. to an iron stake; thence S 2° - 55' W 515.20 Ft. to an iron stake; thence S 88° - 35' E 98.78 Ft. to an iron stake; thence S 1° - 33' W 878.63 Ft. to an iron stake; thence S 3° - 05' W 233.90 Ft. to an iron stake; thence N 89° - 27' E 100.2 Ft. to an iron stake; thence S 59° - 54' E 150.0 Ft. to an iron stake; thence S 39° - 31' E 190.0 Ft. to an iron stake; thence N 0° - 30' E 228.0 Ft. to an iron stake; thence N 89° - 41' E 253.0 Ft. to an iron stake in the western right-of-way line of the Southern Railway Co.; thence with the western right-of-way line of the Southern Railway Co. S 9° - 27' W 318.40 Ft. to an iron stake; thence S 89° - 41' W 180.0 Ft. to an iron stake; thence S 0° - 26' E 177.0 Ft. to an iron stake; thence S 88° - 21' W 10.0 Ft. to an iron stake; thence S 1° - 05' W 94.2 Ft. to an iron stake at the southeastern corner of Lot No. 34 of Section 3, Falconbridge Subdivision; thence S 89°-40' W 508.7 Ft. to an iron stake; thence S 1°-38' W 1111.0 Ft. to an iron stake; thence S 1°-27' E 277.0 Ft. to an iron stake at the southeastern corner of Lot No. 19 of Section 2, Falconbridge Subdivision; thence N 82°-05' W 604.5 Ft. to an iron stake; thence N 18°-43' W 30.0 Ft. to an iron stake; thence S 71°-07' W 200.0 Ft. to an iron stake in the eastern right-of-way line of N. C. Highway No. 65, the said stake being at the southwestern corner of Lot No. 11 of Section 2, Falconbridge Subdivision; thence N 0°-12' E 802.40 Ft. to an iron stake; thence N 88°-37' W 276.6 Ft. to an iron stake in the eastern right-of-way line of N. C. Highway No. 65; thence along the eastern right-of-way line of N. C. Highway No. 65 the following courses and distances: N 14°-10' W 99.6 Ft. to a stake; N 9°-45' W 100.0 Ft. to a stake; N 4°-41' W 100.0 Ft. to a stake; N 3°-36' E 100.0 Ft. to a stake; N 6°-18' E 100.0 Ft. to a stake; N 11°-04' E 100.0 Ft. to an iron stake; thence S 75°-12' E 200.0 Ft. to an

iron stake; thence N 14°-50' E 541.7 Ft. to an iron stake, the said stake being at the northwestern corner of Lot No. 10 of Section 1, Falconbridge Subdivision; thence S 89°-38' E 424.9 Ft. to an iron stake; thence N 2°-22' E 295.8 Ft. to an iron stake; thence N 3°-02' E 361.54 Ft. to an iron stake; thence N 2°-54' E 15.50 Ft. to an iron stake; thence N 59°-46' W 58.60 Ft. to an iron stake; thence N 36°-02' W 344.35 Ft. to an iron stake; thence N 0°-27' E 117.65 Ft. to an iron stake; thence N 12°-18' W 363.0 Ft. to an iron stake; thence N 1°-28' E 458.52 Ft. to an iron stake; thence N 86°-34' W 167.70 Ft. to an iron stake; thence N 4°-10' E 489.75 Ft. to an iron stake in the eastern right-of-way line of N. C. Highway No. 65; thence with the eastern right-of-way line of N. C. Highway No. 65 N 46°-02' E 340.0 Ft. to an iron stake; thence N 2°-42' E along the western property line of Brady Furniture Co. and others 2817.0 Ft. to the center of the A & Y Railroad (Southern Railway Co.) track; thence N 44°-40' E 500.0 Ft. to an iron stake; thence S 45°-20' E parallel with and 500.0 Ft. northeast of the center of the A & Y Railroad (Southern Railway Co.) track 2270.0 Ft. to an iron stake in the east line of W. P. Plunkett, Sr.; thence with the said Plunkett's east line S 5°-00' E 275.0 Ft. to the center of the A & Y Railroad (Southern Railway Co.) track; thence with the center of the A & Y Railroad (Southern Railway Co.) track as it curves in a northeasterly direction an arc distance of 140.0 Ft. to the point of tangency of the said curve; thence still with the center of the A & Y Railroad (Southern Railway Co.) track N 52°-50' E 470.3 Ft.; thence S 45°-20' E. 1400.0 Ft. to a stake; thence S 38°-40' W 80.0 Ft. to an iron stake in the north side of College Street; thence crossing College Street and along the line between E. R. Bodenheimer and Elon Bodenheimer S 18°-20' W 210.0 Ft. to an iron stake; thence still with the line between E. R. Bodenheimer and Elon Bodenheimer S 83°-00' E 100.0 Ft. to an iron stake; thence crossing through the lands of E. R. Bodenheimer S 45°-00' W 600.0 Ft. to an iron stake in the center of a spring branch where said branch crosses E. R. Bodenheimer's west line; thence with E. R. Bodenheimer's west line S 1°-45' W 220.0 Ft. to an iron stake at the intersection of Summit Street and Academy Street; thence still with E. R. Bodenheimer's line S 44°-00' E 560.0 Ft. to an iron stake; thence S 6°-00' E 760.0 Ft. to an iron stake; thence S 50°-30' E 300.0 Ft. to an iron stake; thence S 72°-15' E 420.0 Ft. to an iron stake; thence N 84°-34' E 600.0 Ft. to an iron stake at the northeast corner of Lot No. 10 of the subdivision of the Everette Kiger farm; thence along the east line of the said Lot No. 10 S 5° -26' E 202.95 Ft. to an iron stake in the northern right-of-way line of Academy Street; thence N 89° - 15' E 185.0 Ft. to an iron stake in the northern right-of-way line of Academy Street, the said stake being in the original line between the Everette Kiger and Norman Kiger farms; thence along the said original line, crossing Academy Street and Simmons Road, S 6° - 31' W 930.0 Ft. to an iron stake at Dewey V. Harris's southeast corner; thence along the said Harris's southwestern line N 52° - 52' W 203.9 Ft. to an iron stake; thence still with the said Harris's southwestern line N 34° - 53' W 277.57 Ft. to an iron stake at the said Harris's northwest corner in Earl T. Kiger's line; thence crossing Earl T. Kiger's lot N 89° - 15' W 225.0 Ft. to an iron stake corner between Earl T. Kiger and Kemper L. Kiger in Milton G. Kiger's line; thence along the line between Milton G. Kiger and Earl T. Kiger S 8° - 00' E 390.98 Ft. to an iron stake at the southeast corner of Lot No. 5 of the Milton G. Kiger subdivision; thence along the line of Lot Nos. 5, 7, 10 and 13 of the Milton G. Kiger Subdivision and crossing Foster Street, S 78° - 15' W 790.0

Ft. to an iron stake 450.0 Ft. east of the center of N. C. Highway No. 66 (Broad Street), the said 450.0 Ft. being measured at right angles to the said Highway; thence parallel with and 450.0 Ft. east of the center of N. C. Highway No. 66 (Broad Street) S 16° - 00' E 2300.0 Ft. to an iron stake in the southern right-of-way line of Holmes Street; thence along the southern right-of-way line of Holmes Street S 88° - 00' E. 640.0 Ft. to an iron stake 230.0 Ft. east of the center of Stultz Street; thence parallel with and 230.0 Ft. east of the center of Stultz Street S 1° - 00' W 490.0 Ft. to an iron stake in the southern right-of-way line of Wall Street; thence with the southern right-of-way line of Wall Street N 88° - 00' W 220.0 Ft. to an iron stake; thence S 1° - 00' W 320.0 Ft. to an iron stake at the southeast corner of the Professional and Commercial Center property; thence along the south line of the said property N 87° - 15' W 786.0 Ft. to the western right-of-way line of N. C. Highway No. 66 (Broad Street); thence along the western right-of-way line of N. C. Highway No. 66 (Broad Street) N 1° - 15' W 270.0 Ft. to the point of the BEGINNING and containing 522.0 Acres more or less.

**Sec. 3.** The Town shall operate under the mayor-council form of government. The council shall consist of five members to be elected to staggered terms as hereinafter provided. Beginning with the regular municipal election to be held in 1975, the three candidates receiving the highest number of votes shall be elected for terms of four years and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Thereafter, as the terms of the members expire, their successors shall be elected for terms of four years. The mayor shall be elected for a term of two years by the council from its membership.

**Sec. 4.** The elections for municipal officers in the Town of Rural Hall shall be nonpartisan and decided by a simple plurality. No primary election shall be held. The elections shall be held and conducted by the Forsyth County Board of Elections, and except as otherwise provided herein, shall be held and conducted in accordance with Articles 23 and 24 of Chapter 163 of the General Statutes.

**Sec. 5.** A regular municipal election shall be held on Tuesday after the first Monday in November, 1975, and every two years thereafter for the election of the Town Councilmen. Vacancies occurring for any reason in the council shall be filled for the unexpired term by appointment by the remaining members of the council. A vacancy in the office of mayor shall be filled for the unexpired term by appointment by the council.

**Sec. 6.** The initial members of the Town Council shall be those three persons presently serving as the Board of Commissioners of the Rural Hall Sanitary District and two additional persons who shall be appointed by the three persons presently serving on the Board of the Rural Hall Sanitary District. They shall serve until their successors are elected and qualified pursuant to this act. They shall appoint one of their members as mayor, who shall serve until his successor is appointed under this act.

**Sec. 7.** On June 1, 1974, at 12:00 noon, the Rural Hall Sanitary District shall cease to exist as a body politic and corporate, and the Town of Rural Hall shall simultaneously be incorporated, and at that time all of the District's assets and liabilities shall be transferred to the Town of Rural Hall as provided in G.S. 130-156.3.

S. B. 1186

CHAPTER 1102

AN ACT TO AMEND ARTICLE 15, CHAPTER 113 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO PENALTIES IN REGULATION OF COASTAL FISHERIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-187 is amended by adding the following new subsection:

“(d) Any person in charge of a commercial fishing operation conducted in violation of the following provisions of this Subchapter or the following rules and regulations of the Board; and any person in charge of any vessel used in violation of the following provisions of the Subchapter or the following rules and regulations, shall be guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for the first offense and not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for any offense thereafter, or imprisonment for not more than 30 days, or both. The violations of the statute of the rules and regulations for which this penalty is mandatory are:

(1) Taking or attempting to take, possess, sell, or offer for sale any oysters or clams taken from areas closed by statute, regulation, or proclamation because of suspected pollution.

(2) Taking or attempting to take or have in possession aboard a vessel, shrimp taken by the use of a trawl net between January 1 and the date upon which the shrimping season shall be opened by the Director.

(3) Using a trawl net in any coastal fishing waters closed by proclamation or regulation for the protection of the shrimp population.

(4) Violating the provisions of a special permit issued by the Department.”

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1234

CHAPTER 1103

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING THE MAXIMUM AMOUNT OF WEEKLY BENEFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-29 is hereby amended by adding to the end of such section a new paragraph to read as follows: “Notwithstanding any other provision of this Article, beginning August 1, 1975, and on August 1 of each year thereafter, a maximum weekly benefit amount shall be computed. The amount of this maximum weekly benefit shall be derived by obtaining the average weekly insured wage in accordance with G.S. 96-8(22) and by rounding such figure to its nearest multiple of two dollars (\$2.00), and this said maximum weekly benefit shall be applicable to all injuries and claims arising on and after November 1 following such computation. Such maximum weekly benefit shall apply to all provisions of this Chapter effective August 1, 1975, and shall be adjusted August 1 and effective October 1 of each year thereafter as herein provided.”

**Sec. 2.** This act shall become effective October 1, 1975, and shall only apply to cases arising on and after October 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1269                      **CHAPTER 1104**

AN ACT TO MAKE CHAPTER 1206, SESSION LAWS OF 1965, CHAPTER 815, SESSION LAWS OF 1967, AND CHAPTER 1060, SESSION LAWS OF 1971, RELATING TO BIDDING AND DISPOSITION OF REDEVELOPMENT PROPERTY, APPLICABLE TO THE CITY OF NEW BERN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1206, Session Laws of 1965, is hereby amended by adding at the end of Section 2 the words "and the City of New Bern".

**Sec. 2.** Chapter 815, Session Laws of 1967, is amended by adding at the end of Section 2 the words "and the City of New Bern".

**Sec. 3.** Chapter 1060, Session Laws of 1971, is amended by adding at the end of Section 4 the words "and the City of New Bern".

**Sec. 4.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1414                      **CHAPTER 1105**

AN ACT TO AUTHORIZE SUPPLEMENTAL COMPENSATION FOR CUMBERLAND COUNTY LAW ENFORCEMENT OFFICERS INJURED IN LINE OF DUTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall apply only to the duly elected and qualified sheriff of the county and to all deputies appointed by the sheriff, who are full-time employees of the county in which they are duly appointed, qualified and employed, and the word "officer", as used in this act, shall mean such sheriff and deputies.

**Sec. 2.** Whenever it is determined that any officer is injured as the result of a criminal assault committed upon him in the performance of official duty and that such injury resulted in the total, permanent disability of such officer, as herein defined, the county is authorized to pay such officer such sum which, together with all other compensation he shall receive under the Workmen's Compensation Act, disability benefits or other compensation provided by the county, will equal his regular monthly salary at the time of injury subject to any increase or decrease in salary being paid by the county for the same duty from year to year.

**Sec. 3.** In addition to the salary compensation, the county is authorized to pay all medical expenses incurred by any officer determined to be eligible for benefits under this act, the payment of which is not otherwise provided for under the Workmen's Compensation Act, or insurance coverages participated in by the county. Such medical expenses shall be limited to those required for proper treatment of the injuries sustained by the officer and shall include drugs, hospital care, rehabilitation treatment and equipment, physicians bills, and medical examinations. The county is not liable for any expenses paid by a third

S. B. 1186

CHAPTER 1102

AN ACT TO AMEND ARTICLE 15, CHAPTER 113 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO PENALTIES IN REGULATION OF COASTAL FISHERIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-187 is amended by adding the following new subsection:

“(d) Any person in charge of a commercial fishing operation conducted in violation of the following provisions of this Subchapter or the following rules and regulations of the Board; and any person in charge of any vessel used in violation of the following provisions of the Subchapter or the following rules and regulations, shall be guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) for the first offense and not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for any offense thereafter, or imprisonment for not more than 30 days, or both. The violations of the statute of the rules and regulations for which this penalty is mandatory are:

(1) Taking or attempting to take, possess, sell, or offer for sale any oysters or clams taken from areas closed by statute, regulation, or proclamation because of suspected pollution.

(2) Taking or attempting to take or have in possession aboard a vessel, shrimp taken by the use of a trawl net between January 1 and the date upon which the shrimping season shall be opened by the Director.

(3) Using a trawl net in any coastal fishing waters closed by proclamation or regulation for the protection of the shrimp population.

(4) Violating the provisions of a special permit issued by the Department.”

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1234

CHAPTER 1103

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT REGARDING THE MAXIMUM AMOUNT OF WEEKLY BENEFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-29 is hereby amended by adding to the end of such section a new paragraph to read as follows: “Notwithstanding any other provision of this Article, beginning August 1, 1975, and on August 1 of each year thereafter, a maximum weekly benefit amount shall be computed. The amount of this maximum weekly benefit shall be derived by obtaining the average weekly insured wage in accordance with G.S. 96-8(22) and by rounding such figure to its nearest multiple of two dollars (\$2.00), and this said maximum weekly benefit shall be applicable to all injuries and claims arising on and after November 1 following such computation. Such maximum weekly benefit shall apply to all provisions of this Chapter effective August 1, 1975, and shall be adjusted August 1 and effective October 1 of each year thereafter as herein provided.”

**Sec. 2.** This act shall become effective October 1, 1975, and shall only apply to cases arising on and after October 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

**S. B. 1269                      CHAPTER 1104**

AN ACT TO MAKE CHAPTER 1206, SESSION LAWS OF 1965, CHAPTER 815, SESSION LAWS OF 1967, AND CHAPTER 1060, SESSION LAWS OF 1971, RELATING TO BIDDING AND DISPOSITION OF REDEVELOPMENT PROPERTY, APPLICABLE TO THE CITY OF NEW BERN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1206, Session Laws of 1965, is hereby amended by adding at the end of Section 2 the words “and the City of New Bern”.

**Sec. 2.** Chapter 815, Session Laws of 1967, is amended by adding at the end of Section 2 the words “and the City of New Bern”.

**Sec. 3.** Chapter 1060, Session Laws of 1971, is amended by adding at the end of Section 4 the words “and the City of New Bern”.

**Sec. 4.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

**S. B. 1414                      CHAPTER 1105**

AN ACT TO AUTHORIZE SUPPLEMENTAL COMPENSATION FOR CUMBERLAND COUNTY LAW ENFORCEMENT OFFICERS INJURED IN LINE OF DUTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall apply only to the duly elected and qualified sheriff of the county and to all deputies appointed by the sheriff, who are full-time employees of the county in which they are duly appointed, qualified and employed, and the word “officer”, as used in this act, shall mean such sheriff and deputies.

**Sec. 2.** Whenever it is determined that any officer is injured as the result of a criminal assault committed upon him in the performance of official duty and that such injury resulted in the total, permanent disability of such officer, as herein defined, the county is authorized to pay such officer such sum which, together with all other compensation he shall receive under the Workmen’s Compensation Act, disability benefits or other compensation provided by the county, will equal his regular monthly salary at the time of injury subject to any increase or decrease in salary being paid by the county for the same duty from year to year.

**Sec. 3.** In addition to the salary compensation, the county is authorized to pay all medical expenses incurred by any officer determined to be eligible for benefits under this act, the payment of which is not otherwise provided for under the Workmen’s Compensation Act, or insurance coverages participated in by the county. Such medical expenses shall be limited to those required for proper treatment of the injuries sustained by the officer and shall include drugs, hospital care, rehabilitation treatment and equipment, physicians bills, and medical examinations. The county is not liable for any expenses paid by a third

party who contributed to the injury of the officer in the event recovery is made by the officer for the same.

**Sec. 4.** Total disability as used in this act shall be construed to include any case wherein subsequent to February 1, 1971, the officer has suffered the loss of both arms, or both legs or both eyes, or is rendered totally deaf; or has a disability rating of seventy-five percent (75%) or more due to loss of main bodily functions.

**Sec. 5.** Written application for benefits under this act shall be made by the injured officer to the County Board of Commissioners accompanied by a certification as to the nature and extent of disability by a licensed physician. The Board of Commissioners may make a determination of eligibility and direct payment of benefits or may in its discretion refer the case to a commission for determination.

**Sec. 6.** In its discretion the Board of County Commissioners may, by resolution, appoint a Law Enforcement Disability Commission of three members to make a determination of entitlement to compensation under the act, or eligibility for continuance of the same. At least one member of the Commission shall be a licensed physician. Such Commission shall serve for the term prescribed in the resolution creating the Commission. The Commission shall have the right to issue subpoenas for all witnesses and medical records which it deems necessary to determine entitlement to compensation under this act. The county will furnish the Commission necessary personnel and equipment for taking and recording testimony and the maintenance of records of all its proceedings. In any proceeding of the Commission wherein evidence and testimony is received, the officer whose case is being considered will be given the opportunity to be present and be represented by a licensed attorney. The Commission will review any case referred to it by the County Board of Commissioners to determine eligibility for continuation of compensation. The Commission shall have full authority to promulgate all rules and regulations necessary to properly perform its function and to afford due process of law to each officer in the consideration of all hearings conducted. Upon conclusion of its deliberation the Commission shall file a written report of its findings and determination with the County Board of Commissioners, a copy of which shall be furnished the officer concerned. The determination of the Commission shall be final, subject only to judicial review.

**Sec. 7.** Any officer seeking benefits under this act shall waive client and physician relationship and execute a written authorization for all medical records and statements of the attending physicians to be available to the county or the Disability Commission including all testimony, if any, to be given by any physician before the Commission. The officer shall also waive and release any other medical information of record at a hospital or other facility. The officer shall further be required to report to any doctor or other qualified medical examiner designated by the county or Commission, and failure to so report and submit to treatment or examination and to further cooperate shall preclude or terminate benefits under this act, upon a finding by the county or Commission that such failure to report and be examined as directed is without just cause or excuse on the part of the officer.

**Sec. 8.** In the event the officer is offered work at a lesser salary by the county, even though he is injured as hereinbefore set out, then the salary paid by the county shall be deducted from benefits allowed by the Commission, so long

as the officer works. Upon his being unable to work or voluntarily resigns said employment, all benefits awarded by the Commission shall immediately be paid to the officer, unless terminated by the Commission as hereinbefore set out. Payments of medical expenses before or after the award shall not be deducted from the salary of the officer.

**Sec. 9.** All the provisions of this act shall be supplemental to and shall not in any way repeal, amend or rescind the Workmen's Compensation Act of the State of North Carolina.

**Sec. 10.** This act shall apply only to Cumberland County.

**Sec. 11.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 12.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

## H. B. 166 CHAPTER 1106

### AN ACT TO REWRITE ARTICLE 11 OF CHAPTER 90 OF THE GENERAL STATUTES RELATING TO VETERINARIANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 11 of Chapter 90 is hereby rewritten to read as follows:

#### "ARTICLE 11.

#### "VETERINARIANS.

"§ 90-179. *Purpose of act.*—In order to promote the public health, safety, and welfare by safeguarding the people of this State against unqualified or incompetent practitioners of veterinary medicine, it is hereby declared that the right to practice veterinary medicine is a privilege conferred by legislative grant to persons possessed of the personal and professional qualifications specified in this Article.

"§ 90-180. *Title.*—This Article shall be known as the North Carolina Veterinary Practice Act.

"§ 90-181. *Definitions.*—When used in this Article these words and phrases shall be defined as follows:

(1) 'Accredited School of Veterinary Medicine' means any veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent and that conforms to the standards required for accreditation by the American Veterinary Medical Association.

(2) 'Animal' means any animal, mammal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead.

(3) 'Board' means the North Carolina Veterinary Medical Board.

(4) 'Licensed veterinarian' means a person who is validly and currently licensed to practice veterinary medicine in this State.

(5) 'Person' means any individual, firm, partnership, association, joint venture, cooperative or corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(6) 'Practice of veterinary medicine' means:

- a. to diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique on any animal.
- b. to represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision a.
- c. to use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision a.

(7) 'Veterinarian', 'Doctor of Veterinary Medicine', 'D. V. M.' or equivalent title shall mean a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or who now has a valid North Carolina license to practice veterinary medicine.

(8) 'Veterinary medicine' includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine.

(9) 'Veterinary Student Intern' means a person who is enrolled in an accredited veterinary college and who has satisfactorily completed his third year of veterinary college education.

(10) 'Veterinary Student Preceptee' means a person who is pursuing a doctorate degree in an accredited school of veterinary medicine which has a preceptor or extern program and who has completed the academic requirements of such program.

(11) 'Veterinary Technician' or 'Animal Technician' shall mean a person who has successfully completed a post-high school course in the care and treatment of animals which conforms to the standards required for accreditation by the American Veterinary Medical Association

"§ 90-182. *North Carolina Veterinary Medical Board; appointment, membership, organization.*—In order to properly regulate the practice of veterinary medicine and surgery, there shall be a board to be known as the North Carolina Veterinary Medical Board which shall consist of five members appointed by the Governor. When and as the terms of the present members expire, the Governor shall annually appoint one member of such Board, who shall hold his office for five years, and until his successor is appointed and qualified. In addition to the five members appointed by the Governor, the Commissioner of Agriculture shall biennially appoint as an additional Board member, the State Veterinarian or a North Carolina licensed veterinarian from the staff of a North Carolina Department or Institution, who shall hold his office for two years, and until his successor is appointed and qualified. Every person so appointed shall, within 30 days after notice of appointment appear before the clerk of the superior court of the county in which he resides and take oath to faithfully discharge the duties of his office.

Each member shall have been a legal resident of this State and licensed to practice veterinary medicine in this State for not less than five years prior to his appointment.

No person who has been appointed a member of the Board shall continue on said Board if during the term of his appointment he shall:

- (1) transfer his legal residence to another state; or
- (2) be or become the owner of or be employed by any wholesale or jobbing house dealing in supplies, equipment, or instruments used or useful in the practice of veterinary medicine; or
- (3) have his license to practice veterinary medicine rescinded for cause in accordance with the provisions of Chapter 150 of the General Statutes.

“§ 90-183. *Meeting of Board.*—The Board shall meet at least once each year at the time and place fixed by the Board. Other meetings may be called by the president of the Board by giving notice as may be required by rule. A majority of the Board shall constitute a quorum. Meetings shall be open and public except that the Board may meet in closed session to prepare, approve, administer, or grade examinations, or to deliberate the qualification of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

At its annual meeting the Board shall organize by electing a president, a secretary-treasurer, and such other officers as may be prescribed by rule. Officers of the Board shall serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairman of Board meetings.

“§ 90-184. *Compensation of the Board.*—In addition to such reimbursement for travel and other expenses as is normally allowed to State employees, each member of the Board, for each day or substantial portion thereof he is engaged in the work of the Board may receive a per diem allowance, as determined by the Board, not to exceed thirty-five dollars (\$35.00) per day. None of the expenses the Board or of the members shall be paid by the State.

“§ 90-185. *General powers of the Board.*—The Board shall have the power to:

- (1) Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the State.
- (2) Issue, renew, deny, suspend, or revoke licenses and temporary permits to practice veterinary medicine in the State or otherwise discipline licensed veterinarians consistent with the provisions of Chapter 150 of the General Statutes and of this Article and the rules and regulations adopted thereunder.
- (3) Conduct investigations for the purpose of discovering violations of this Article or grounds for disciplining licensed veterinarians.
- (4) Employ full-time or part-time personnel — professional, clerical, or special — necessary to effectuate the provision of this Article and purchase or rent necessary office space, equipment and supplies.
- (5) Appoint from its own membership one or more members to act as representatives of the Board at any meeting within or without the State where such representation is deemed desirable.
- (6) Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provision of this Article, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose of enabling the Board effectively to supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

“§ 90-186. *Special powers of the Board.*—In addition to the powers set forth in G.S. 90-185 above, the Board shall have the power:

(1) To fix minimum standards for continuing veterinary medical education, which standards shall be a condition precedent to the renewal of a license under this Article;

(2) To inspect any hospitals, clinics, mobile units or other places utilized by any practicing veterinarian, either by a member of the Board or its authorized representatives, which inspection shall be for the purpose of reporting such inspection to the Board on a form prescribed by the Board or seeking disciplinary action in cases of violations of practice or reasonable health or sanitary regulations duly established and published by the Board or other duly constituted State authorities having jurisdiction in such matters.

(3) To provide special registration for 'Animal Technicians', 'Veterinary Student Interns' and 'Veterinary Student Preceptees' as defined in G.S. 90-181, and to adopt regulations concerning the training, registration and service limits of such assistants while employed by and acting under the supervision and responsibility of licensed veterinarians and to have exclusive jurisdiction in determining eligibility, and qualification requirements and in granting or refusing to grant, or to suspend or revoke registration. The Board shall have power to require a registration fee not to exceed five dollars (\$5.00) for original registration and not to exceed five dollars (\$5.00) for renewal.

"§ 90-187. *Application for license; qualifications.*—(a) Any person desiring a license to practice veterinary medicine in this State shall make written application to the Board.

(b) The application shall show that the applicant is 18 years of age or more, a graduate of an accredited veterinary school, a person of good moral character, and such other information and proof as the Board may require by rule. The application shall be accompanied by a fee in the amount established and published by the Board.

(c) Graduates of nonaccredited colleges of Veterinary Medicine outside the United States and Canada shall furnish satisfactory proof of graduation from such a college; of successful completion of a year of acceptable veterinary medical experience in a United States or Canadian college, clinic, or private practice recognized for this purpose by the Board; of having successfully passed an examination by the United States National Board of Veterinary Medical Examiners; and of comprehension of and ability to communicate in the English language.

(d) If the Board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under G.S. 90-187.3, the Board may forthwith grant him a license.

"§ 90-187.1. *Examinations.*—The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary-treasurer shall give public notice of the time and place for each examination at least 90 days in advance of the date set for the examination. A person desiring to take an examination shall make application at least 30 days before the date of the examination.

After each examination the secretary-treasurer shall notify each examinee of the result of his examination, and the Board shall issue licenses to the persons successfully completing the examination. The secretary-treasurer shall record the new licenses and issue a certificate of registration to the new licensees.

“§ 90-187.2. *Status of persons previously licensed.*—Any person holding a valid license to practice veterinary medicine in this State on the date this Article becomes effective shall be recognized as a licensed veterinarian and shall be entitled to retain this status so long as he complies with the provisions of this Article, and Board rules adopted pursuant thereto.

“§ 90-187.3. *License without examination.*—(a) At its discretion, the Board may issue a license without a written examination to a qualified applicant who furnishes satisfactory proof that he is a graduate of an accredited veterinary school and who:

- (1) Is a practicing veterinarian licensed in a state, territory, or district of the United States having license requirements, at the time the applicant was first licensed, substantially equivalent to the requirements of this Article; or
- (2) Is qualified under the provisions of G.S. 90-187(c).

(b) At its discretion, the Board may orally or practically examine any person qualifying for licensing under this section.

“§ 90-187.4. *Temporary permit.*—(a) The Board in its discretion may issue without examination a temporary permit to practice veterinary medicine in this State:

- (1) To a qualified applicant for license pending examination, provided that such temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued; or to an applicant lacking full qualification requirements but who, in the opinion of the Board, is competent to practice under the supervision of a licensed veterinarian.
- (2) To a nonresident veterinarian validly licensed in another state, territory, or district of the United States or a foreign country, provided that such temporary permit shall be issued for a period of no more than 60 days.
- (3) Such temporary permits as provided in (1) and (2) above may contain such restrictions as to time, place, or supervision, as the Board may deem appropriate. The State Veterinarian shall be notified as to the issuance of all temporary permits.

(b) A temporary permit may be summarily revoked by majority vote of the Board without a hearing.

“§ 90-187.5. *License renewal.*—All licenses shall expire annually on December 31 of each year but may be renewed by application to the Board and payment of the renewal fee established and published by the Board. The secretary-treasurer shall issue a new certificate of registration to all persons registering under this Article. Failure to apply for renewal within 30 days after expiration shall result in automatic revocation of license and any person who shall practice veterinary medicine after such revocation shall be practicing in violation of this Article. Provided, that any person may renew an expired license at any time within two years upon application and the payment of the prescribed renewal fee and an additional amount not in excess of ten dollars (\$10.00) per year for late renewals, provided that the applicant is otherwise eligible for renewal.

“§ 90-187.6. *Special registration of veterinary assistants.*—(a) ‘Animal Technicians’, ‘Veterinary Student Interns’, and ‘Veterinary Student Preceptees’ as defined in G.S. 90-181, before performing any services otherwise prohibited to persons not licensed or registered under this Article, shall be approved by and

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annually registered with the Board in accordance with G.S. 90-186(3) of this Article. The Board shall be responsible for all matters pertaining to the qualifications, registration, and revocation of registration of such persons, under rules duly adopted and published by the Board.

(b) The services of a technician, intern or preceptee shall be limited to services under the direction and supervision of a licensed veterinarian. He shall receive no fee or compensation of any kind for his services other than such salary or compensation as may be paid to him by the veterinarian, hospital or clinic by which he is employed. He may participate in the operation of a branch office, clinic, or allied establishment only to the extent allowable under and as defined in subsection (a) above.

(c) A registered technician, as an assistant to and under the supervision of a licensed veterinarian, may perform such duties as are required in the physical care of animals and in carrying out medical orders as prescribed by the licensed veterinarian, requiring an understanding of animal science but not requiring the professional services as set forth in G.S. 90-181(7) hereof. He may not perform any act producing an irreversible change in the animal, but may assist the veterinarian in:

- (1) Obtaining and recording information about cases.
- (2) Preparation of patients, instruments, equipment and medicants for surgery.
- (3) Collection of specimens and performance of certain laboratory procedures.
- (4) Application of wound dressings.
- (5) Assisting the veterinarian in diagnostic, medical, and surgical procedures.

(d) Registered interns, in addition to all of the services permitted to registered technicians, may, under the direct personal supervision of a licensed veterinarian, perform surgery and administer therapeutic or prophylactic drugs.

(e) Registered preceptees, in addition to all of the services permitted to registered technicians and registered interns, may, upon the direction of the employing veterinarian, make ambulatory calls and hospital and clinic diagnoses, prescriptions and treatments.

(f) Any person registered as an animal or veterinary technician, veterinary student intern or veterinary student preceptee, who shall practice veterinary medicine except as provided herein, shall be guilty of a misdemeanor, subject to the penalties set forth in this Article and shall also be subject to revocation of registration.

(g) Any veterinarian directing or permitting a registered technician, intern or preceptee to perform a task or procedure not specifically allowed under this Article and the rules of the Board shall be guilty of a misdemeanor and subject to the penalties set forth in this Article or General Statutes, or both.

“§ 90-187.7. *Abandonment of animals; notice to owner; relief from liability for disposal; ‘abandoned’ defined.*—(a) Any animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which shall be unclaimed by its owner or his agent for a period of more than 10 days after written notice by registered or certified mail, return receipt requested, to the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society, or dog pound or disposed of as such custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian, as provided in subsection (a) of this section, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal.

(c) For the purpose of this Article the term 'abandoned' shall mean to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

"§ 90-187.8. *Discipline of licensees.*—Upon complaint, and within the Board's discretion, the Board may revoke, or suspend the license of, or otherwise discipline, any licensed veterinarian under the provisions of Chapter 150 of the General Statutes of North Carolina. Grounds for disciplinary action shall include but not be limited to the following:

(1) The employment of fraud, misrepresentation, or deception in obtaining a license.

(2) An adjudication of insanity or incompetency.

(3) Chronic inebriety or habitual use of drugs.

(4) The use of advertising or solicitation which is false, misleading, or is otherwise deemed unprofessional under regulations adopted by the Board.

(5) Conviction of a felony or other public offense involving moral turpitude.

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.

(7) Having professional association with or knowingly employing any person practicing veterinary medicine unlawfully.

(8) Fraud or dishonesty in the application or reporting of any test for disease in animals.

(9) Failure to keep veterinary premises and equipment in a clean and sanitary condition.

(10) Failure to report, as required by the laws and regulations of the State or making false report of, any contagious or infectious disease.

(11) Dishonesty or gross negligence in the inspection of foodstuffs or the issuance of health or inspection certificates.

(12) Conviction of cruelty to animals.

(13) Revocation of a license to practice veterinary medicine by another state, territory, or district of the United States on grounds other than nonpayment of registration fee.

(14) Unprofessional conduct as defined in regulations adopted by the Board.

"§ 90-187.9. *Reinstatement.*—Any person whose license is suspended or revoked may, at the discretion of the Board, be relicensed or reinstated at any time without an examination by majority vote of the Board on written application made to the Board showing cause justifying relicensing or reinstatement.

"§ 90-187.10. *Necessity for license; certain practices exempted.*—No person shall engage in the practice of veterinary medicine in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from said Board a certificate of renewal of license for the calendar year in which such person proposes to practice and until he shall have been first licensed and

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registered for such practice in the manner provided in this Article and the rules and regulations of the said Board.

Nothing in this Article shall be construed to prohibit:

(a) Any person or his employee from administering to animals, the title to which is vested in himself, except when said title is so vested for the purpose of circumventing the provisions of this Article;

(b) Any person who is a regular student or instructor in a legally chartered college from the performance of those duties and actions assigned as his responsibility in teaching or research;

(c) Any veterinarian who is a member of the armed forces of the United States or who is an employee of the United States Department of Agriculture, the United States Public Health Service or other federal agency, or the State of North Carolina, or political subdivision thereof, from performing official duties while so commissioned or employed;

(d) Any person from such practices as permitted under the provisions of G.S. 90-185, House Bill 659, Chapter 17, Public Laws 1937, or House Bill 358, Chapter 5, Private Laws 1941;

(e) Any person from dehorning animals or castrating male animals;

(f) Any person from providing for or assisting in the practice of artificial insemination;

(g) Any physician licensed to practice medicine in this State, or his assistant, while engaged in medical research;

(h) Any rabies inspector duly appointed and acting within the provisions of G.S. 106-365 and G.S. 106-366;

(i) Any veterinarian licensed to practice in another state from examining livestock or acting as a Consultant in North Carolina, provided he does not work in the state for more than 10 days in any calendar year and all infectious or contagious diseases diagnosed are reported to the State Veterinarian within 48 hours.

“§ 90-187.11. *Partnership practice; corporate practice.*—Whenever the practice of veterinary medicine is carried on by a partnership, all partners must be either licensed or the holders of temporary permits.

It shall be unlawful for any corporation to practice or offer to practice veterinary medicine as defined in this Article, except as provided for in Chapter 55B of the General Statutes of North Carolina.

“§ 90-187.12. *Unauthorized practice; penalty.*—If any person shall

(1) practice or attempt to practice veterinary medicine in this State without first having obtained a license or temporary permit from the Board; or

(2) practice veterinary medicine without the renewal of his license, as provided in G.S. 90-187.5; or

(3) practice or attempt to practice veterinary medicine while his license is revoked, or suspended, or when a certificate of license has been refused; or

(4) violate any of the provisions of this Article, said person shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or imprisonment at the discretion of the court, or both fined and imprisoned. Each act of such unlawful practice shall constitute a distinct and separate offense.”

**Sec. 2. *Severability.*** If any part of this act is held invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid part shall remain in effect.

**Sec. 3.** This act shall be in full force and effect from and after July 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

**H. B. 2129 CHAPTER 1107**

**AN ACT TO ALTER THE CORPORATE BOUNDARIES OF THE TOWN OF EAST ARCADIA.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 954 of the Session Laws of 1973, ratified March 7, 1974, is amended by rewriting Section 2 thereof to read as follows:

“Sec. 2. The corporate boundaries of the Town of East Arcadia shall be as follows until altered in accordance with law:

BEGINNING at a point on East Arcadia Road, said road being Public Road Number 1741 at a point where the road crosses Bladen and Columbus County line and runs with Road Number 1741 to Public Road Number 1743; thence with Public Road Number 1743 to a point where Beaver Dam Creek crosses said road; thence with Beaver Dam Creek in a northeasterly direction across Highway #87 to the Columbus and Bladen County line; thence with Columbus and Bladen County line to East Arcadia Road Number 1741, being point of beginning.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

**H. B. 1487 CHAPTER 1108**

**AN ACT CREATING EMERGENCY AUTHORITY TO OPERATE WATER OR SEWER UTILITY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 116 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G.S. 62-116 as paragraph (a) under G.S. 62-116 and by adding a new paragraph (b) as follows:

“(b) Upon its own initiative, or upon written request by any customer or by any representative of a local or State government agency, and after issuance of notice to the owner and operator and after hearing in accordance with G.S. 1A-1 Rule 65(b), the Commission may grant emergency operating authority to any person to furnish water or sewer utility service to meet an emergency to the extent necessary to relieve the emergency; provided, that the Commission shall find from such request, or from its own knowledge, that a real emergency exists and that the relief authorized is immediate, pressing and necessary in the public interest, and that the person so authorized has the necessary ability and is willing to perform the prescribed emergency service. Upon termination of the emergency, the emergency operating authority so granted shall expire upon order of the Commission. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof.”

**Sec. 2.** Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the

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extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

**Sec. 3.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1062                      **CHAPTER 1109**

AN ACT TO AMEND G.S. 67-13, RELATING TO THE PAYMENT OF DAMAGES TO PERSONS OR PROPERTY INJURED BY DOGS SO AS TO EXEMPT AVERY COUNTY FROM SAID ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 67-13, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is amended by inserting in line 15 thereof, between the words "Anson" and "Beaufort", the word "Avery".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1099                      **CHAPTER 1110**

AN ACT TO AMEND G.S. 78-19 OF THE GENERAL STATUTES RELATING TO INTEREST CHARGES BY BROKERS OR DEALERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 78-19 is amended by denominating the current G.S. 78-19 as subsection "(a)" and by inserting a new subsection (b) at the end thereof to read as follows:

"(b) Interest charges by broker or dealer. Interest charged by a broker or dealer registered under the Securities Exchange Act of 1934, as amended, or registered under this Chapter, as now or hereafter amended, on a debit balance in an account for a customer, shall be exempt from the provisions of Chapter 24 of the North Carolina General Statutes if such debit balance is payable at will without penalty and is secured by securities as defined in the Uniform Commercial Code, Article 8. Investment Securities, G.S. 25-8-101 through G.S. 25-8-406."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1101                      **CHAPTER 1111**

AN ACT TO PROVIDE IMMUNITY FROM MONETARY LIABILITY FOR ACTS OF MEMBERS OF MEDICAL REVIEW COMMITTEES WHEN PERFORMED WITHIN THE SCOPE OF THE FUNCTIONS OF SUCH COMMITTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 131 of the General Statutes of North Carolina is amended by adding a new Article to be designated Article 17 and entitled Medical Review Committee to read as follows:

"Article 17.

“Medical Review Committee.

“§ 131-163. *Definitions.*—As used in this act, ‘medical review committees’ or ‘committee’ shall mean a committee of a State or local professional society, of a medical staff of a licensed hospital, nursing home, or a committee of a peer review corporation or organization which is formed for the purpose of evaluating the quality, cost of, or necessity for hospitalization or health care services, within the purview of Section 249F, Public Law 92-603, 92nd Congress, 2nd Session.

“§ 131-164. *Limited liability.*—A member of a duly-appointed medical review committee shall not be subject to liability for damages in any civil action on account of any act, statement or proceeding undertaken, made, or performed within the scope of the functions of such committee, if the committee member acts without malice or fraud.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1190                      **CHAPTER 1112**

AN ACT TO AMEND GENERAL STATUTES SECTION 93A-6, ENTITLED “REVOCATION OR SUSPENSION OF LICENSES BY BOARD”.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93A-6(a) is hereby amended by rewriting subsection (12) to read as follows:

“(12) Commingling the money or other property of his principals with his own or failure to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association all money received by a real estate broker acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; provided, such accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest thereon.”

**Sec. 2.** This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1198                      **CHAPTER 1113**

AN ACT TO REPEAL G.S. 115-161.

Whereas, the provisions of G.S. 115-161 relating to the taking of a complete census of the school population are obsolete in the light of present-day organizational patterns; and

Whereas, the requirements for the said census are unrealistic in that the necessary cost for taking the census would greatly exceed any benefits which could be derived from the existence of such a census; and

Whereas, no provisions for funding the census have ever been made by the State and have seldom been made by local tax levying authorities; and

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Whereas, there is no evidence that such a census is needed in the operation of the public schools of the State; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-161 is hereby repealed.

**Sec. 2.** This act shall become effective on the date of ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1199

**CHAPTER 1114**

AN ACT TO AMEND G.S. 135-6 TO INCREASE THE MEMBERSHIP OF THE RETIREMENT SYSTEM'S BOARD OF TRUSTEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-6 (b) as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes is hereby amended by striking out the figure "10" in subsection (b), line 1 and inserting in lieu thereof the figure "12" and is further amended by replacing the period at the end of subsection (3) with a semicolon and adding the following to subsection (b):

"(4) Two members, one a member of the House of Representatives, appointed by the Speaker of the House; and one a member of the Senate, appointed by the President of the Senate, neither of which shall be an active or retired teacher or State employee or an employee of a unit of local government to serve terms beginning on the effective date of this act and to continue for the duration of their current terms of office. Thereafter, their successors shall be appointed for two-year terms to run concurrently with the organization of the General Assembly."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1202

**CHAPTER 1115**

AN ACT TO PRESERVE FOUR-YEAR STRAIGHT TERMS FOR ELECTED OFFICIALS IN CERTAIN MUNICIPALITIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-279(a) as it appears in the 1972 Replacement Volume of the General Statutes of North Carolina is hereby amended by inserting in the third line between the word "two" and the word "years" the words "or four" and by inserting in the fourth line between the word "thereafter" and the word "on" the words "as provided by municipal charter".

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1214                      **CHAPTER 1116**

AN ACT TO AMEND G.S. 7A-451(a) AND ADD G.S. 148-62.1 TO PROVIDE COUNSEL FOR INDIGENTS IN CERTAIN PAROLE REVOCATION PROCEEDINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-451(a) is amended by deleting “and” at the end of subparagraph (7); deleting the period at the end of subparagraph (8), and inserting “; and” in lieu thereof; and adding a new subsection (9), to read as follows:

“(9) A hearing for revocation of parole at which the right to counsel is provided in accordance with the provisions of Chapter 148, Article 4, of the General Statutes.”

**Sec. 2.** G.S. Chapter 148, Article 4 is amended by adding a new section to read as follows:

“§ 148-62.1. *Entitlement of indigent parolee to counsel, in discretion of Board of Paroles, at revocation hearings.*—Any parolee who is an indigent under the terms of G.S. 7A-450(a) may be determined entitled, in the discretion of the North Carolina Board of Paroles, to the services of counsel at State expense at a parole revocation hearing at which either: (a) the parolee claims not to have committed the alleged violation of the parole conditions; or (b) the parolee claims there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, even if the violation is a matter of public record or is uncontested, and that the reasons are complex or otherwise difficult to develop or present; or (c) the parolee is incapable of speaking effectively for himself; and where the Board feels, on a case by case basis, that such appointment in accordance with either (a), (b) or (c) above is necessary for fundamental fairness.”

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1228                      **CHAPTER 1117**

AN ACT TO AMEND G.S. 143B-179 TO INCREASE THE MEMBERSHIP OF THE COUNCIL ON DEVELOPMENTAL DISABILITIES OF THE DEPARTMENT OF HUMAN RESOURCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-179 is hereby amended by rewriting the first paragraph thereof to read as follows:

“§ 143B-179. *Council on Developmental Disabilities-members; selection; quorum; compensation.*—The Council on Developmental Disabilities of the Department of Human Resources shall consist of 30 members appointed by the Governor. The composition of the council shall be as follows:

(1) 14 members from the General Assembly and State government agencies as follows: two persons who are members of the Senate, two persons who are members of the House of Representatives, one representative of the Department of Public Education, one representative of the Department of Social Rehabilitation and Control, one representative of the Department of Administration, and seven representatives of the Department of Human

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Resources to include representatives from the areas of health services, mental health services, vocational rehabilitation services, Governor's Coordinating Council on Aging, services for the blind, social services and institutional services;

(2) 10 members designated as consumers of services or representatives of consumers of services for the developmentally handicapped, of which at least three members shall be designated as representatives of advocate organizations as follows: one member from the North Carolina Association for Retarded Children, one member from the United Cerebral Palsy of North Carolina, and one member from the North Carolina Chapter of the Epilepsy Foundation of America; and

(3) six members at large, who by their interests and efforts have helped provide or may help provide improved services for those who are developmentally disabled, three of whom shall initially be appointed for a term of two years."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

## S. B. 1342                      CHAPTER 1118

AN ACT TO AMEND G.S. 20-57 RELATING TO MOTOR VEHICLE REGISTRATION CARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-57(b) is hereby amended by striking the words "shall be of a size not to exceed 2-3/8 inches by 3-5/8 inches and" appearing in lines one and two thereof.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

## H. B. 1573                      CHAPTER 1119

AN ACT REMOVING THE USURY RATE CEILING AND PRE-PAYMENT PENALTIES ON ALL FIRST MORTGAGE HOME LOANS UNTIL JUNE 30, 1975.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 1 of Chapter 24 of the General Statutes is hereby amended by adding a new section immediately after G.S. 24-1.1, to be numbered G.S. 24-1.1a and to read as follows:

"§ 24-1.1a. *Contract rates on home mortgage loans.*—(a) Notwithstanding any other provision of this Chapter or any other provision of law, the parties to a first mortgage home loan may contract in writing for the payment of interest at any rate agreed upon by the parties.

(b) Notwithstanding any other provision of this Chapter or any other provision of law, such contract shall provide that no prepayment penalties shall be charged to any party with respect to any such first mortgage home loan."

**Sec. 2.** The term "home" shall mean real estate upon which there is located or is to be located one or more single-family dwellings, or dwelling units.



been committed to the Department of Correction for presentence diagnostic study under the provisions of G.S. 148-12(b) or G.S. 148-49.3.

(c) Any person convicted of escaping or attempting to escape from the State prison system who at any time subsequent to such conviction escapes or attempts to escape therefrom, shall be guilty of a felony and upon conviction thereof, shall be punished by imprisonment for not less than six months nor more than three years.

(d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a misdemeanor and, upon conviction thereof, shall be imprisoned at the discretion of the court.

(e) Unless otherwise specifically ordered by the presiding judge, any term of imprisonment imposed hereunder shall commence at the termination of any and all sentences to be served in the State Prison System under which the person is held at the time an offense defined by this section is committed by such person.

(f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has time remaining to be served in the State Prison System on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.

(g) Any person convicted and in the custody of the North Carolina Department of Correction and ordered or otherwise assigned to work under the work release program, G.S. 148-33.1, or any convicted person in the custody of the North Carolina Department of Correction and on temporary parole by permission of the State Board of Paroles or other authority of law, or any youthful offender granted relief under G.S. 148-49.1 et seq., who shall fail to return to the custody of the North Carolina Department of Correction, shall be guilty of the crime of escape and subject to the applicable provisions of this act and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, wilful failure to return to an appointed place and at an appointed time as ordered.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

## S. B. 1240

## CHAPTER 1121

### AN ACT TO AUTHORIZE THE TRAINING AND UTILIZATION OF EMERGENCY MEDICAL TECHNICIANS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-514 is amended by adding at the end thereof the following:

“Upon successful completion of such training programs and other programs approved by the Board of Medical Examiners of the State of North Carolina, emergency medical services personnel may, in the course of their emergency medical services duties, perform such acts, tasks and functions as they have been trained to perform and as provided in rules and regulations of such Board, regardless of other provisions of law.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1241

CHAPTER 1122

AN ACT TO AMEND G.S. 106-323, RELATING TO THE PAYMENT BY THE STATE OF A PART OF THE VALUE OF CERTAIN ANIMALS DESTROYED ON ACCOUNT OF DISEASE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-323, as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, and which now reads:

“If it appears to be necessary for the control or eradication of Bang’s disease and tuberculosis and paratuberculosis in cattle, or glanders in horses and mules, to destroy such animals affected with such diseases and to compensate owners for loss thereof, the State Veterinarian is authorized, within his discretion, to agree on the part of the State, in the case of cattle destroyed for Bang’s disease and tuberculosis, and paratuberculosis to pay one third of the difference between the appraised value of each animal so destroyed and the value of the salvage thereof: Provided, that in no case shall any payment by the State be more than twenty-five dollars (\$25.00) for any grade animal nor more than one hundred dollars (\$100.00) for any purebred animal; provided further, that the State indemnity shall not be in excess of the indemnity payments made by the federal government. In the case of horses or mules destroyed for glanders, to pay one half of the appraised value, said half not to exceed one hundred dollars (\$100.00).”

is amended by adding a new paragraph thereto as follows:

“The State Veterinarian is also authorized, in his discretion, and subject to the maximum payment hereinabove provided, to purchase in the name of the State, cattle which have been exposed to Bang’s disease, tuberculosis or paratuberculosis and horses and mules which have been exposed to glanders.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1261

CHAPTER 1123

AN ACT TO AMEND G.S. 127-40 RELATIVE TO THE APPOINTMENT AND ORGANIZATION OF SPECIAL COURTS-MARTIAL IN THE NORTH CAROLINA NATIONAL GUARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127-40, as the same appears in Volume 3B of the 1964 Replacement to the General Statutes of North Carolina, is rewritten as follows:

“§ 127-40. *Special courts-martial; appointments, power and authority.*—In the National Guard, not in the service of the United States, special courts-martial may be appointed by: (1) the commanding officer of a brigade, regiment, comparable or higher command of the North Carolina Army National Guard; (2) the commanding officer of a wing, group, separate squadron, comparable or higher command of the North Carolina Air National Guard; (3) the commanding officer or officer in charge of any North Carolina National Guard command when empowered by the Governor or the Adjutant General of North Carolina.

Such courts-martial shall have the power and authority to try any person subject to military law for any crimes or offenses within the jurisdiction of a

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general military court. A special court-martial may not try a commissioned officer. Such courts-martial shall have the same powers of punishment as general courts-martial except that fines imposed by such courts-martial shall not exceed one hundred dollars (\$100.00), and such courts-martial shall not have the power of dismissal from the National Guard.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1262

CHAPTER 1124

AN ACT TO AMEND G.S. 127-37.1 RELATIVE TO THE NORTH CAROLINA DISTINGUISHED SERVICE MEDAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127-37.1, as the same appears in Volume 3B of the 1964 Replacement to the General Statutes of North Carolina, is rewritten as follows:

“§ 127-37.1. *Distinguished Service Medal; ribbon; presentation by Governor.*—There is hereby created the ‘North Carolina Distinguished Service Medal’ which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor. The Governor is authorized to present such medal, upon the recommendation of the Adjutant General of North Carolina and a board consisting of all general officers and officers assigned to authorized general officer grade vacancies, North Carolina National Guard, to any member or former member of the armed forces who has distinguished, or who shall distinguish himself by exceptionally meritorious conduct in the performance of outstanding service to the North Carolina National Guard.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1270

CHAPTER 1125

AN ACT TO AMEND G.S. 7A-451(b) RELATING TO APPELLATE REPRESENTATION OF INDIGENT PERSONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-451(b)(6) is rewritten to read as follows:

“(6) Review of any judgment or decree pursuant to G.S. 7A-27, G.S. 7A-30(1), G.S. 7A-30(2), and G.S. 15-222.”

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1301

**CHAPTER 1126**

AN ACT AMENDING THE RULES OF CIVIL PROCEDURE TO REQUIRE A PARTY TAKING A DEPOSITION TO FURNISH A COPY TO THE OPPOSING PARTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The third sentence of G.S. 1A-1, Rule 30(c), as the same appears in Volume 1A of the General Statutes, is stricken and there is inserted in place thereof the following:

“(c) When transcription is requested by any party other than (1) the one taking the deposition or (2) an opposing party, the court may order the expense of transcription or a portion thereof paid by the party making the request. When transcription is requested by any opposing party, he shall be entitled to a copy thereof at the expense of the party taking the deposition; provided, however, that the court, after at least five days’ notice to the opposing party requesting the copy and the party who took the deposition may, in its discretion, order that the expense of transcription or a portion thereof be paid by the opposing party by reason of the financial condition of the party who took the deposition.”

**Sec. 2.** G.S. 1A-1, Rule 30(f) (2), as the same appears in Volume 1A of the General Statutes, is rewritten to read as follows:

“(2) Subject to the provisions of subsection (c) hereof and upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.”

**Sec. 3.** This act shall not effect pending litigation.

**Sec. 4.** This shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1322

**CHAPTER 1127**

AN ACT TO AMEND CHAPTER 53 OF THE GENERAL STATUTES, ENTITLED “BANKS”, BY CHANGING THE WORD “RESTRICTED” TO “QUALIFIED”.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 53-43.3, as the same appears in the 1973 Cumulative Supplement to Volume 2B of the General Statutes, is hereby amended on lines seven and 13 by striking the word “restricted” wherever it appears and substituting in lieu thereof the word “qualified”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

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S. B. 1334

CHAPTER 1128

AN ACT AMENDING G.S. 45-12, RELATING TO THE SUBSTITUTION OF A TRUSTEE IN A MORTGAGE OR DEED OF TRUST.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-12 is amended by adding a paragraph thereto as follows:

“Notwithstanding the provisions of the foregoing paragraph, whenever a substitute trustee has been appointed prior to January 1, 1974, and no certificate was made by the clerk of superior court as hereinabove required, the appointment of such trustee is hereby made and declared valid for all intents and purposes.”

**Sec. 2.** This act shall not apply to pending litigation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1344

CHAPTER 1129

AN ACT AUTHORIZING THE UNITED STATES FOREST SERVICE TO ESTABLISH AND MAINTAIN A PUBLIC SWIMMING AREA IN THE NEUSE RIVER OPPOSITE THE RECREATION AREA OF THE CROATAN NATIONAL FOREST, CRAVEN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding the provisions of G.S. 146-12, or any other applicable law, the United States Department of Agriculture, Forest Service Division, is hereby granted an easement in the Neuse River, Craven County, North Carolina, which easement shall extend for a distance of 500 feet into the Neuse River and shall run for a distance of 1800 feet along and with the beach of the Neuse River immediately adjacent to the Neuse River recreation area of the Croatan National Forest. Said easement is granted for the sole purpose of the United States Forest Service maintaining a swimming area within the boundaries of said easement.

**Sec. 2.** This easement may be terminated by the Department of Administration, in its discretion.

**Sec. 3.** The Board of Commissioners of Craven County is hereby authorized to adopt reasonable rules and regulations for the use of said leased area and to further authorize the United States Forest Service to enforce said regulations.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1377                      **CHAPTER 1130**

AN ACT REGARDING THE PUBLICATION OF FINANCIAL INFORMATION BY INSURERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 58 of the General Statutes is amended by inserting a new section immediately following G.S. 58-34 to be designated G.S. 58-34.1, and to read as follows:

“§ 58-34.1. *Publication of financial information.*—Notwithstanding any other provision of the laws of this State an insurer may, subject to requirements set forth by regulation promulgated by the Commissioner, publish financial statements or information based on financial statements prepared on a basis which is in accordance with requirements of a competent authority and which differs from the basis of the statements which have been filed with the Insurance Commissioner. Such differing financial statements or information based on financial statements shall not be made the basis for the application of provisions of any laws of this State not relating solely to the publication of financial information unless such provisions specifically so require.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 1387                      **CHAPTER 1131**

AN ACT RELATING TO THE ESTABLISHMENT OF A LOCAL GOVERNMENT CENTER.

*The General Assembly of North Carolina enacts:*

**Section 1.** Counties, cities and towns are hereby authorized to appropriate money for payment to their respective instrumentalities, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities for the purpose of financing the cost, in whole or in part, of purchasing, constructing, equipping, maintaining and operating a local government center in the City of Raleigh to serve as permanent headquarters for said organizations.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1633                      **CHAPTER 1132**

AN ACT TO AMEND G.S. 20-28 PERTAINING TO MOTOR VEHICLE DRIVER'S LICENSE REVOCATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-28 as same appears in the Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by inserting the following sentence immediately after the period following the word “period” and immediately before the word “Any” appearing in line eight of the second unnumbered paragraph thereof: “If the judge and solicitor hearing said case are not reasonably available to make or refuse such recommendation, then the judge and solicitor presiding and serving over the court of conviction

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may make the recommendation." G.S. 20-28 is further amended by striking the last sentence of the second unnumbered paragraph. After amendment, the second unnumbered paragraph of G.S. 20-28 will read as follows:

"Notwithstanding any other provisions of this section, in those cases of conviction of the offense provided in this section in which the judge and solicitor of the court wherein a conviction for violation of this section was obtained recommend in writing to the Department that the Department examine into the facts of the case and exercise discretion in suspending or revoking the driver's license for the additional periods provided by this section, the Department shall conduct a hearing and may impose a lesser period of additional suspension or revocation than that provided in this section or may refrain from imposing any additional period. If the judge and solicitor hearing said case are not reasonably available to make or refuse such recommendation, then the judge and solicitor presiding and serving over the court of conviction may make the recommendation."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

## H. B. 1634

## CHAPTER 1133

AN ACT TO AMEND G.S. 20-166.1 TO REQUIRE DRIVERS INVOLVED IN ACCIDENTS TO FURNISH PROOF OF FINANCIAL RESPONSIBILITY ON FORMS PRESCRIBED BY THE DEPARTMENT OF MOTOR VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-166.1(b) is hereby amended by rewriting the same to read as follows:

"(b) The driver of any vehicle involved in a collision resulting in injury to or death of any person or total property damage to an apparent extent of two hundred dollars (\$200.00) or more, shall furnish proof of financial responsibility on forms prescribed by the Department."

**Sec. 2.** G.S. 20-166.1(d) is hereby amended by rewriting the same to read as follows:

"(d) The Department may require the driver of a vehicle involved in a collision which is required to be reported by this section to file a supplemental report when the original report is insufficient in the opinion of the Department."

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1638                      **CHAPTER 1134**

AN ACT TO AMEND G.S. 20-64 CONCERNING REFUNDS UPON THE SURRENDER OF AN UNEXPIRED REGISTRATION PLATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (f) of G.S. 20-64 as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by adding a new sentence at the end thereof to read as follows:

“no such refund shall be made unless the owner or transferor can furnish proof of financial responsibility upon such registered vehicle effective until the date of the surrender of the plate.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1663                      **CHAPTER 1135**

AN ACT TO AMEND G.S. 163-136 TO REQUIRE DIFFERENT COLORS FOR EACH SEPARATE BALLOT IN PRIMARY AND GENERAL ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-136, as the same appears in the 1972 Replacement Volume 3D of the General Statutes, is amended by adding a new subsection (d) to read:

“(d) Each kind of official ballot as defined in G.S. 163-140 used in a primary election shall have a distinct and separate color, and each such ballot used in a general election shall have a distinct and separate color. In both a primary and general election, the color of each kind of official ballot as defined in G.S. 163-140 shall be determined by the board of elections responsible for printing the ballots.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1670                      **CHAPTER 1136**

AN ACT TO PERMIT A REGISTER OF DEEDS TO INDEX LIMITED PARTNERSHIP AGREEMENTS SOLELY IN THE NAME OF THE PARTNERSHIP.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 161-22 is amended by adding at the end thereof the following:

“The register of deeds of every county shall index any certificate filed in his office pursuant to G.S. 59-2, the Uniform Limited Partnership Act, only under the name of the partnership and of each of the general partners.”

**Sec. 2.** Every register of deeds shall cause a statement to be affixed or printed on the index page of the book or books in which limited partnership agreements are filed that such partnerships are indexed only under the name of the partnership and of each of the general partners.

**Sec. 3.** This act shall become effective January 1, 1975.

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In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1714                      **CHAPTER 1137**

AN ACT TO AMEND GENERAL STATUTE 115-36 TO PERMIT LOCAL BOARDS OF EDUCATION TO INCLUDE PUPILS ATTENDING KINDERGARTEN AND THIRD GRADE IN RULES AND REGULATIONS COUNTY AND CITY BOARDS MAY ADOPT CONCERNING THE LENGTH OF THE SCHOOL DAY FOR HANDICAPPED CHILDREN, FIRST AND SECOND GRADES.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statute 115-36 is amended by rewriting the second part of the first sentence so that the same shall read as follows:

“Provided, the several county and city boards of education may adopt rules and regulations allowing handicapped pupils, kindergarten pupils, and pupils attending the first, second, and third grades to attend school for a period less than six hours.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1783                      **CHAPTER 1138**

AN ACT TO AMEND CHAPTER 96 OF THE GENERAL STATUTES KNOWN AS THE EMPLOYMENT SECURITY LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 96-8(10)b is amended by deleting after the word “the” in line 6 the words “next highest” and inserting in lieu thereof the word “nearest”.

**Sec. 2.** G.S. 96-8(17) is amended by adding a new subparagraph “c” immediately following the subparagraph “b” to read as follows:

“c. As to claims filed on or after October 1, 1974, for claimants who do not have a benefit year in progress, ‘benefit year’ shall mean the one-year period beginning with the first day of a week with respect to which an individual first registers for work and files a valid claim for benefits. A valid claim shall be deemed to have been filed only if such individual, at the time the claim is filed, is unemployed, and has been paid wages in his base period totaling at least five hundred sixty-five dollars and fifty cents (\$565.50), and equal to at least one and one-half times his high quarter wages, which high quarter wages must equal at least one hundred and fifty dollars (\$150.00).”

**Sec. 3.** G.S. 96-12(b)(1) is amended by redesignating the existing subparagraph as “(b) (1) a” and adding new subparagraphs “b” and “c” as follows:

“b. Each eligible individual whose benefit year begins on or after the first day of October, 1974, who is totally unemployed as defined by G.S. 96-8(10)a, and who files a valid claim, shall be paid benefits with respect to such week or weeks at a rate per week equal to the amount obtained by dividing such individual’s high quarter wages paid during his base period by 26, rounded to the nearest dollar, but shall not be less than fifteen dollars (\$15.00).

c. Each eligible individual whose benefit year begins on or after the first day of October, 1974, who is 'partially unemployed' or 'part totally unemployed' as defined in G.S. 96-8(10)b and c, respectively, and who files a valid claim, shall be paid benefits with respect to such week or weeks in an amount figured to the nearest multiple of one dollar which is equal to the difference between his weekly benefit amount and that part of the remuneration payable to him for such week which is in excess of one-half of his weekly benefit amount.

**Sec. 4.** G.S. 96-12(b)(2) is amended by inserting after the word "made" in the last line of the subparagraph the following:

"Beginning October 1, 1974, and each August 1 thereafter, a maximum weekly benefit amount available to an eligible individual whose benefit year begins on October 1, 1974, or thereafter, shall be determined by multiplying the average weekly insured wage, obtained in accordance with G.S. 96-8(22), by two-thirds rounded to the nearest dollar. The maximum rate applicable to each claimant shall be that rate in effect during the time the claimant's benefit year is established."

**Sec. 5.** G.S. 96-12(b)(3) is amended by deleting in line 3 after the word "benefits" the following:

"prior to January 1, 1972,".

**Sec. 6.** G.S. 96-12(c) is amended by deleting after the word "benefit." in line 3 the remainder of the paragraph as follows:

"Such partial benefit shall be an amount which is equal to the difference between his weekly benefit amount and that part of the remuneration payable to him with respect to such week figured to the next highest dollar which is in excess of a sum equal to one-half of his weekly benefit amount."

and inserting in lieu thereof:

"Such partial benefit shall be an amount figured to the nearest multiple of one dollar which is equal to the difference between his weekly benefit amount and that part of the remuneration payable to him for such week which is in excess of one-half of his weekly benefit amount."

**Sec. 7.** G.S. 96-12(d) is amended by inserting after the word "Chapter" at the end of line 4 the following:

"On and after October 1, 1974, the maximum benefit amount available to eligible individuals shall be determined by dividing the individual's base period wages by his high quarter wages and multiplying that quotient by eight and two-thirds, rounding the result to the nearest whole number, and then multiplying the figure so derived by the weekly benefit amount available to that individual; provided the minimum total amount of benefits available to eligible individuals shall not be less than 13 times his weekly benefit amount, nor shall any eligible individual be entitled to more than 26 times his weekly benefit amount during any benefit year, except that such benefits may be extended further in accordance with the provisions of G.S. 96-12(e)."

**Sec. 8.** This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

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H. B. 1788

CHAPTER 1139

AN ACT TO AMEND G.S. 7A-311(a) (1) RELATING TO CIVIL PROCESS FEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-311(a) (1), as it appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding a new sentence immediately preceding the last sentence thereof to read:

“If the process is served, or attempted to be served by the sheriff, the fee shall be remitted to the county.”

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

H. B. 1891

CHAPTER 1140

AN ACT RELATING TO THE MEDICAL EXAMINATION OF PRISONERS FOR TUBERCULOSIS AND VENEREAL DISEASES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-97 and - 98 are hereby repealed.

**Sec. 2.** G.S. 130-115 through - 122 are hereby repealed.

**Sec. 3.** G.S. 153A-225(a) is amended by striking the following words in the second sentence: “(3) Shall provide for compliance with the requirements of G.S. 130-97 and G.S. 130-121.” and by inserting in lieu thereof the following words: “(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases.”

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. B. 687

CHAPTER 1141

AN ACT TO DELETE OBSOLETE NOMENCLATURE AND MAKE TECHNICAL CHANGES IN VARIOUS SECTIONS OF CHAPTER 15 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15-6 is amended by deleting from line two “by any judge, court, justice of the peace, or other peace officer”.

**Sec. 2.** G.S. 15-7 is amended by deleting the last word in the section, “county”, and inserting in lieu thereof the word “state”.

**Sec. 3.** G.S. 15-11 is amended by deleting from each of lines one and three “,police department and constable” and inserting in lieu thereof “and police department”; by deleting from line six “,police departments and constables” and inserting in lieu thereof “and police departments”; by deleting from line 11 “,police department or constable” and inserting in lieu thereof “and police department”; and by deleting from lines 11 and 12 “,police department and constable” and inserting in lieu thereof “and police department”.

**Sec. 4.** G.S. 15-12 is amended by deleting “,police department or constable” from each of lines two and three, five and six, 16 and 17, and 19 and inserting in lieu thereof “or police department”.

**Sec. 5.** G.S. 15-13 is amended by deleting “,police department or constable” from line three and by deleting from line five “,police department, or constable” and inserting in lieu thereof in each instance “or police department”.

**Sec. 6.** G.S. 15-14 is amended by deleting “,police department, or constable” from lines two and three and inserting in lieu thereof “or police department”.

**Sec. 7.** G.S. 15-15 is amended by deleting “,constable” from line two.

**Sec. 8.** G.S. 15-16 is amended by deleting “,constable” from lines one and two.

**Sec. 9.** G.S. 15-48 is rewritten to read as follows:

“In all cases where any justice or judge of the General Court of Justice shall, on written affidavit, filed and retained by such justice or judge, receive information that a felony has been committed by any person, and that such person flees from justice, conceals himself and evades arrest and service of the usual process of law, the justice or judge is hereby empowered and required to issue proclamation against him reciting his name, if known, and thereby requiring him forthwith to surrender himself; and also empowering and requiring the sheriff of any county in the State in which such fugitive shall be to take such power with him as he shall think fit and necessary for the going in search and pursuit of, and effectually apprehending, such fugitive from justice, which proclamation shall be published at the door of the courthouse of any county in which such fugitive is supposed to lurk or conceal himself, and at such other places as the justice or judge shall direct; and if any person against whom proclamation has been thus issued, continues to stay out, lurks and conceals himself, and does not immediately surrender himself, any citizen of the State may capture, arrest, and bring him to justice, and in case of flight or resistance by him, after being called on and warned to surrender, may slay him without accusation of any crime.”

**Sec. 10.** G.S. 15-49 is amended by deleting “or any judge of a criminal court, or any justice of the peace, or mayor of any city, or chief magistrate of any incorporated town,” from lines two through four.

**Sec. 11.** G.S. 15-107.1 is amended by deleting from each of lines two, three, four and five the words “justice of the peace” and inserting in lieu thereof in each instance “magistrate”.

**Sec. 12.** G.S. 15-113 is amended by deleting from lines seven and 15 “term” and inserting in lieu thereof in both instances “session” and by deleting from line 10 “said term” and inserting in lieu thereof “that session”.

**Sec. 13.** G.S. 15-115 is amended by deleting the period (.) at the end of the first sentence and adding “with some person of suitable age and discretion then residing therein.”

**Sec. 14.** G.S. 15-166 is amended by changing the semicolon (;) in line five to a period (.) and deleting the remainder of the section.

**Sec. 15.** G.S. 15-167 is amended by deleting “term” from each of lines two, four, 11 and 14 and inserting in lieu thereof in each instance “session”.

**Sec. 16.** G.S. 15-173 is amended by deleting from line two “court or in any criminal court” and inserting in lieu thereof “or district court”.

**Sec. 17.** G.S. 15-177, 15-177.1, and 15-178 are repealed.

**Sec. 18.** G.S. 15-186 is amended by deleting from line six “term” and inserting in lieu thereof “criminal session”.

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**Sec. 19.** G.S. 15-200 is amended by deleting from line 21 "term" and inserting in lieu thereof "session".

**Sec. 20.** G.S. 15-200.1 is amended by deleting from lines two and three "courts and in courts inferior to the superior courts", and inserting in lieu thereof "and district court"; by deleting from the second sentence all after the word "and" in line eight and inserting in lieu thereof "confinement is possible."; and by deleting from line 24 "term", and inserting in lieu thereof "session".

**Sec. 21.** G.S. 15-221 is amended by deleting from line 13 "at term,".

**Sec. 22.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 748

CHAPTER 1142

AN ACT TO MAKE SON-IN-LAW OR DAUGHTER-IN-LAW A CLASS A BENEFICIARY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 1 of Chapter 105 of the General Statutes is hereby amended by rewriting G.S. 105-4(a) to read as follows:

"§ 105-4. *Rate of tax-Class A.*—(a) Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue, or lineal ancestor, or husband or wife of the person who died possessed of such property aforesaid, or stepchild of the person who died possessed of such property aforesaid, or child adopted by the decedent in conformity with the laws of this State or of any of the United States, or of any foreign kingdom or nation, or a son-in-law or a daughter-in-law whose spouse is not entitled to any beneficial interest in such property of the person who died possessed of such property aforesaid, at the following rates of tax (for each one hundred dollars (\$100.00) or fraction thereof) of the value of such interest:

First \$ 10,000 above exemption	1 percent
Over \$ 10,000 and to \$ 25,000	2 percent
Over \$ 25,000 and to \$ 50,000	3 percent
Over \$ 50,000 and to \$ 100,000	4 percent
Over \$ 100,000 and to \$ 200,000	5 percent
Over \$ 200,000 and to \$ 500,000	6 percent
Over \$ 500,000 and to \$1,000,000	7 percent
Over \$1,000,000 and to \$1,500,000	8 percent
Over \$1,500,000 and to \$2,000,000	9 percent
Over \$2,000,000 and to \$2,500,000	10 percent
Over \$2,500,000 and to \$3,000,000	11 percent
Over \$3,000,000	12 percent

**Sec. 2.** This act shall become effective July 1, 1974, and apply to the estates of all persons dying on or after that date.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 995 CHAPTER 1143

AN ACT TO EXEMPT BICYCLES WITH HELPER MOTORS FROM THE REGISTRATION REQUIREMENTS OF CHAPTER 20.

*The General Assembly of North Carolina enacts:*

**Section 1.** Part 3, Article 3, Chapter 20 of the General Statutes of North Carolina is hereby amended by adding a new section to be designated G.S. 20-50.1 and to read as follows:

“§ 20-50.1. *Certain bicycles with motors exempt.*—Notwithstanding any of the provisions of Chapter 20 of the North Carolina General Statutes, all pedal bicycles with helper motors rated at one brake horsepower or less and driven by friction or belt, not gears or chain, and incapable of exceeding 20 miles per hour shall be exempt from all title and registration requirements of Chapter 20, provided such bicycles so equipped shall not be operated upon any highway or public vehicular area of this State by any person under the age of 16 years.”

**Sec. 2.** The operators and passengers of bicycles with helper motors as herein defined shall not be required to wear a safety helmet of a type approved by the Commissioner of Motor Vehicles.

**Sec. 3.** G.S. 20-38(20)d is hereby amended by striking the word “and” appearing immediately before the words “three-wheeled” appearing in line 6 and by striking the period at the end thereof and adding the following: “and bicycles with helper motors rated less than one brake horsepower transmitted by friction or belt and not by gear or chain, which produce only ordinary pedaling speeds up to a maximum of 20 miles per hour.”

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1078 CHAPTER 1144

AN ACT TO AMEND G.S. 20-316 CONCERNING DEPARTMENTAL HEARINGS UPON LAPSE OF LIABILITY INSURANCE COVERAGE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-316 is hereby amended by rewriting the first sentence thereof to read as follows:

“Any person whose registration plate has been revoked under G.S. 20-309(e) or G.S. 20-311 may request a hearing.”

**Sec. 2.** G.S. 20-316 is further amended by rewriting the fourth sentence thereof to read as follows:

“If it appears that continuous financial responsibility existed for the vehicle involved, or if it appears the lapse of financial responsibility is not reasonably attributable to the neglect or fault of the person whose registration plate was revoked, the Department shall withdraw its order of revocation and such person may retain the registration plate.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1201 CHAPTER 1145

AN ACT TO AMEND G.S. 160A-64(a) TO AUTHORIZE TRAVEL AND EXPENSE ALLOWANCES FOR ELECTED MUNICIPAL OFFICIALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-64(a) is amended by changing the period at the end thereof to a comma and adding immediately after such comma the following language:

“or to a fixed allowance, the amount of which shall be established by the council, for travel and other personal expenses of office; provided, any fixed allowance so established during a term of office shall not be increased during such term of office.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1278 CHAPTER 1146

AN ACT TO ABOLISH THE OFFICE OF CORONER IN NORTHAMPTON, PENDER, PERQUIMANS, DAVIE, AND ORANGE COUNTIES UPON THE EXPIRATION OF THE TERM OF THE PRESENT CORONER.

*The General Assembly of North Carolina enacts:*

**Section 1.** The office of Coroner in Northampton, Pender, Perquimans, Davie, and Orange Counties is hereby abolished upon the expiration of the term of the present Coroner, and Chapter 152 of the General Statutes shall not thereafter be applicable to Northampton, Pender, Perquimans, Davie, and Orange Counties.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1353 CHAPTER 1147

AN ACT TO AMEND G.S. 58-224.2, RELATING TO THE TRANSFER OF BENEFITS OF A DECEASED MEMBER OF A MUTUAL BURIAL ASSOCIATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-224.2, as the same appears in the 1973 Cumulative Supplement to Volume 2B of the General Statutes, is amended by rewriting the second sentence of the second paragraph thereof, which now reads as follows:

“The Commission is authorized and directed to adopt specific rules and regulations to provide for the orderly transfer of a member’s benefits in cash or merchandise and services from the official funeral director of the member’s association to the official funeral director of any other mutual burial association in good standing under the provisions of this Article.” so that said sentence will read as follows:

“The Commission is authorized and directed to adopt specific rules and regulations to provide for the orderly transfer of a member’s benefits in cash or merchandise and services from the official funeral director of the member’s association to any funeral establishment registered under the provisions of G.S.

90-210.17 and which furnishes a funeral service, or merchandise, or both, for the burial of the member.”

**Sec. 2.** The provisions of this act shall apply to all mutual burial association policies heretofore or hereafter issued under the provisions of this Article.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1526                      CHAPTER 1148**

AN ACT TO AMEND THE POWERS AND DUTIES OF THE GOVERNOR TO ALLOW HIM TO AUTHORIZE THE NATIONAL GUARD AND/OR HIGHWAY PATROL TO REMOVE VEHICLES THAT ARE BLOCKING PUBLIC VEHICULAR AREAS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-12, as the same appears in the 1971 Cumulative Supplement to Volume 3C of the General Statutes, is hereby amended by adding a new subdivision (11) as follows:

“(11) Upon being furnished information from law enforcement officers that public roads or highways or other public vehicular areas, as defined in G.S. 20-16.2(h), are being blocked by privately owned and operated vehicles or by any other means, thereby impeding the free flow of goods and merchandise in North Carolina, he, if such information warrants, is authorized to declare that a state of emergency exists in the affected area, and is further authorized to order that the Highway Patrol and/or National Guard remove the offending vehicles or other causes of the blockade from the emergency area.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1636                      CHAPTER 1149**

AN ACT TO AMEND G.S. 20-108 TO MAKE THE SECTION APPLICABLE TO VEHICLE TRANSMISSIONS AND TO PRESCRIBE A MINIMUM FINE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-108 is hereby amended by adding in the third line thereof, after the word “engine” and before the word “removed” the words “or transmission”.

**Sec. 2.** G.S. 20-108 is further amended by adding after the word “fine” and before the word “or” in the last line thereof, the words “of not more than one thousand dollars (\$1,000)”.

**Sec. 3.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

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H. B. 1808 CHAPTER 1150

AN ACT AMENDING G.S. 24-14 RELATING TO LOANS SECURED BY SECONDARY OR JUNIOR MORTGAGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 24-14(a)(2) is amended by deleting from the second line thereof the words “, or three hundred dollars (\$300.00), whichever is less”, and inserting in lieu thereof the words “or five hundred dollars (\$500.00), whichever is less.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 1881 CHAPTER 1151

AN ACT TO AMEND G.S. 130-13 RELATING TO THE MEMBERSHIP OF COUNTY BOARDS OF HEALTH.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 130-13(c), as it appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following:

“In the event there is not a licensed physician, dentist, or pharmacist in the county, or if no physician, dentist, or pharmacist therein will serve on the Board, then an additional member from the general public shall be appointed; but if a licensed physician, dentist or pharmacist later becomes available for appointment, he may be appointed to the Board in place of such member from the general public. All vacancies in the county board of health occurring from any cause shall be filled by appointment of the county board of commissioners, and the person appointed shall serve for the unexpired portion of the term.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1090 CHAPTER 1152

AN ACT TO AMEND CHAPTER 84 RELATIVE TO THE NORTH CAROLINA STATE BAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 84-16 is amended by rewriting the same to read as follows:

“The membership of the North Carolina State Bar shall consist of two classes, active and inactive.

The active members shall be all persons who shall have heretofore obtained, or who shall hereafter obtain, a license or certificate, which shall at the time be valid and effectual, entitling them to practice law in the State of North Carolina, who shall have paid the membership dues hereinafter specified, unless classified as an inactive member by the Council as hereinafter provided. No person other than a member of the North Carolina State Bar shall practice in any court of the State except foreign attorneys as provided by statute.

Inactive members shall be all persons found by the Council to be not engaged in the practice of law and not holding themselves out as practicing attorneys and not occupying any public or private positions in which they may be called upon to give legal advice or counsel or to examine the law or to pass upon the legal effect of any act, document, or law.

Only active members shall be required to pay annual membership fees, and shall have the right to vote. A member shall be entitled to vote at all annual or special meetings of the North Carolina State Bar, and at all meetings of and elections held by the bar of each of the judicial districts in which he resides: Provided, that if he desires to vote with the bar of some district in which he practices, other than that in which he resides, he may do so upon filing with the resident judge of the district in which he resides (and, after the North Carolina State Bar shall have been organized as hereinafter set forth, with the secretary-treasurer of the North Carolina State Bar), his statement in writing that he desires to vote in such other district: Provided, however, that in no case shall he be entitled to vote in more than one district.”

**Sec. 2.** G.S. 84-17 is amended by deleting the last portion of the first sentence thereof which now reads “and each retiring president of the North Carolina State Bar whose term expires after October 1, 1961, who shall be a councilor for a term of three years from the date of the expiration of his term as president.”

and the same is rewritten as follows:

“and each retiring president of the North Carolina State Bar whose term of office expires beginning with the Annual Meeting in 1973, who shall be a councilor for a period of one year from the date of the expiration of his term as president: Provided, that this shall not affect any president retiring prior to 1973.”

**Sec. 3.** G.S. 84-22 is deleted and rewritten to read as follows:

“The officers of the North Carolina State Bar shall be a president, a president-elect, a vice-president, and a secretary-treasurer, who shall be deemed likewise to be the officers, with the same titles, of the council. Their duties shall be prescribed by the council. The president-elect and the vice-president shall be elected by the members of the North Carolina State Bar at its annual meeting and the secretary-treasurer shall be elected by the council. All officers shall hold office for one year and until their successors are elected and qualified. The president-elect shall take office as president at the conclusion of the annual meeting following his term of office as president-elect. The officers need not be members of the council.”

**Sec. 4.** G.S. 84-34 is amended by deleting the entire first sentence and inserting in lieu thereof the following:

“Every active member of the North Carolina State Bar shall, prior to the first day of July of each year, beginning with the year 1975, pay to the secretary-treasurer an annual membership fee of \$45.00, and every member shall notify the secretary-treasurer of his correct post office address.”

**Sec. 5.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

S. B. 1196

**CHAPTER 1153**

AN ACT TO PERMIT THE BOARD OF PAROLES TO GRANT TEMPORARY PAROLE TO A COMMITTED YOUTHFUL OFFENDER WITHIN THE LAST 90 DAYS OF HIS CONFINEMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 148-49.8, as it appears in the 1971 Cumulative Supplement of Volume 3C of the General Statutes of North Carolina, is hereby amended by redesignating the present subsection (c) as subsection (d), and to insert a new subsection (c) to read as follows:

“(c) The Board of Paroles, without the approval of the Commissioner of Correction, may release a committed youthful offender on conditional release within the last 90 days of his maximum term of commitment.”

**Sec 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 850

**CHAPTER 1154**

AN ACT AMENDING GENERAL STATUTE 160A-364 WITH RESPECT TO THE TIME OF GIVING NOTICE OF PUBLIC HEARING AND THE RECORDATION OF ORDINANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-364 is hereby amended by striking from line six of said section the number “15” and inserting instead the number “10” so that the third full sentence of said section shall read: “The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.”

**Sec. 2.** This act shall apply only to the City of Durham.

**Sec. 3.** This act shall be in full force and effect upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 1377

**CHAPTER 1155**

AN ACT TO AMEND G.S. 115-77 TO PROVIDE THAT QUALIFIED VOTERS RESIDING IN TERRITORY PERMANENTLY ATTACHED TO A LOCAL TAX DISTRICT OR SCHOOL ADMINISTRATIVE UNIT SHALL BE PERMITTED TO VOTE IN SCHOOL BOARD ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-77 is amended by adding a new paragraph at the end thereof to read as follows:

“Any qualified voter residing in the area attached shall be permitted to vote in any election for members of the board of education having jurisdiction over the attached area.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1643                      CHAPTER 1156**

AN ACT TO AUTHORIZE THE TOWN OF HOLLY RIDGE TO DONATE A TRACT OF LAND TO THE PENSLOW HEALTH CENTER FOUNDATION, INC.

*The General Assembly of North Carolina enacts:*

**Section 1.** In consideration of public service, the Board of Commissioners of the Town of Holly Ridge is hereby authorized to donate and convey to the Penslow Health Center Foundation, Inc., upon such terms and conditions as the Board deems best, the following tract of land:

BEGINNING at a concrete monument located in the southeastern right-of-way line of State Road No. 1569, said beginning point being located in a northeasterly direction 627.81 feet from the point where said right-of-way line of State Road No. 1569 intersects the right-of-way line of N.C. Highway No. 50; running thence south 34° 12' east 331.40 feet to an iron stake; thence north 34° 12' west 331.40 feet to an iron stake in the aforementioned right-of-way line of State Road No. 1569; thence with said right-of-way line south 56° 15' west 100 feet to a concrete monument the point of beginning and containing 33,140 square feet by actual survey of Robert V. McCrea, Registered Engineer.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1874                      CHAPTER 1157**

AN ACT TO ESTABLISH PROCEDURES FOR DISPOSITION OF JUVENILES WITH MENTAL DISORDERS, RETARDATION, OR IMPAIRMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-286(6) as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is amended by striking out the last two sentences thereof and substituting therefor the following language:

“If the court believes, or if there is evidence presented to the effect that the child is mentally ill or is mentally retarded the court shall refer the child to the area mental health director or local mental health director for appropriate action. In no case will a child be committed directly to a State hospital or mental retardation center. The area mental health director or local mental health director shall be responsible for arranging an interdisciplinary evaluation of the child and mobilizing resources to meet the child's needs. If institutionalization is determined to be the best service for the child, then admission shall be with the voluntary consent of the parent or guardian; provided, that the consent of the parent or guardian shall not be required in those cases wherein the alternative to admission to a State Hospital or Mental Retardation Center in the commitment of the child to a juvenile corrections facility.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 1935 CHAPTER 1158

AN ACT TO AMEND G.S. 143-129 RELATING TO THE LETTING OF PUBLIC CONTRACTS BY THE CITY OF CHARLOTTE AND MECKLENBURG COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 279 of the Session Laws of 1969 and Chapter 92 of the 1967 Session Laws are hereby repealed.

**Sec. 2.** G.S. 143-129 is hereby amended by deleting the words and figures "twenty-five hundred dollars (\$2,500)" as the same appears in line 5 and substituting in lieu thereof the words and figures "five thousand dollars (\$5,000)".

**Sec. 3.** This act shall apply only to the City of Charlotte and Mecklenburg County.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 1937 CHAPTER 1159

AN ACT TO AMEND CHAPTER 412 OF THE SESSION LAWS OF 1969 RELATING TO THE REIDSVILLE FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 412 of the Session Laws of 1969 is hereby amended by adding a new Section 5.1 reading as follows:

"Administrative Costs. The Board of Trustees shall pay from the Local Firemen's Relief Fund the cost of each annual audit and all other necessary expenses incurred in the administration of the Fund."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 1950 CHAPTER 1160

AN ACT TO ALLOW THE TOWN OF NAGS HEAD TO DESIGNATE CERTAIN TOWN-OWNED PROPERTY FOR HEALTH CARE PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of the Town of Nags Head, Dare County, is hereby authorized to designate that such part or portion of town-owned lands may be used for health care purposes as it may determine necessary in accordance with the provisions hereinafter set out.

**Sec. 2.** Any conveyance of a parcel, parcels or all of the said town-owned lands from the Town of Nags Head in accordance with this act may be made by lease for such term and upon such conditions as the Town may designate, or, by deed of conveyance. The instrument of lease or conveyance shall contain a clause requiring the property to be used solely for health care purposes as specifically authorized by this act. Those purposes include and shall be limited to rural

health care clinics, nursing homes, hospitals, out-patient care facilities and offices for doctors and dentists.

**Sec. 3.** Any conveyance by deed shall be for consideration equivalent to the fair market value of the said property as determined by the Board of Commissioners of the Town of Nags Head; conveyances by lease shall be for the fair market lease value as shall be determined by the Board of Commissioners of the Town of Nags Head; conveyances to bonafide nonprofit corporations organized for the purpose of providing health care facilities as defined above, however, may be by lease, deed or other instrument of conveyances for nominal consideration in the discretion of the Board of Commissioners of the Town of Nags Head.

**Sec. 4.** In the event property eased or conveyed pursuant to the provisions of this act is not used for purposes authorized herein within 18 calendar months of the delivery of the instrument of conveyance or lease, or ceases to be used for such purposes, or herein set out, the property shall revert to the Town of Nags Head.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1970                      CHAPTER 1161**

**AN ACT TO AUTHORIZE THE ABC BOARD OF THE TOWN OF MT. PLEASANT TO SPEND SEVEN PERCENT (7%) OF ITS PROFITS FOR ALCOHOLIC REHABILITATION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 7 of Chapter 196 of the 1967 Session Laws is hereby amended on line four by inserting after the word "enforcement" the words and figure "; and seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics;".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 1991                      CHAPTER 1162**

**AN ACT TO PROVIDE FOR COMPENSATION OF MEMBERS OF THE BLADEN COUNTY BOARD OF EDUCATION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** In Bladen County each member of the Board of Education except the chairman of the Board of Education of said county, shall receive for his services in attending regular, recessed, and any special meetings of the Board of Education the sum of fifty dollars (\$50.00) per month. The chairman of the Board of Education of said county shall receive for his services in attending the regular, recessed, and any special meetings of the Board of Education the sum of sixty dollars (\$60.00) per month.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2000 **CHAPTER 1163**

AN ACT TO RESTRICT STARTING TIMES FOR SUNDAY AUTO RACES IN CLEVELAND, POLK AND RUTHERFORD COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful to begin any type of motor vehicle race on Sunday before 12:00 noon in Cleveland, Polk and Rutherford Counties. The violation of the provisions of this act shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and imprisonment for not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2002 **CHAPTER 1164**

AN ACT TO ALTERNATE TERMS OF CHOWAN COUNTY COMMISSIONERS AND FIX THE TERM OF OFFICE AT FOUR YEARS.

*The General Assembly of North Carolina enacts:*

**Section 1.** At the general election for Chowan County Officers to be held in 1974 and every two years thereafter, County Commissioners shall be elected in numbers equal to those County Commissioners whose terms will expire following said election and prior to the next succeeding election, and all County Commissioners then elected shall serve for a term of four years.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2016 **CHAPTER 1165**

AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF ROBESON, HOKE AND SCOTLAND COUNTIES TO FIX THE SALARY AND OTHER COMPENSATION FOR BOARDS OF EDUCATION WITHIN THEIR RESPECTIVE COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-29 is hereby amended by adding the following at the end of the first paragraph thereof:

“Provided that the Board of County Commissioners of Robeson, Hoke and Scotland Counties may fix the compensation to be paid the city and county boards of education within their respective counties.”

**Sec. 2.** This act shall apply only to Robeson, Hoke and Scotland Counties.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2028

**CHAPTER 1166**

AN ACT TO AMEND G.S. 115-18 TO PROVIDE FOR AN ADDITIONAL MEMBER OF THE HYDE COUNTY BOARD OF EDUCATION WITH SUCH MEMBER BEING A RESIDENT OF OCRACOKE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-18 is hereby amended by adding the following at the end thereof:

“Provided that the Hyde County Board of Education shall have one additional member who shall be a resident of Ocracoke.”

**Sec. 2.** Beginning with the primary election to be held in 1974, and thereafter, this additional member shall be nominated by the voters of the county at large for a four-year term. This additional member elected in 1974, and thereafter, shall take office and qualify as provided in G.S. 115-22.

**Sec. 3.** For purposes of the initial election of this additional member only, the time for filing is extended until noon on April 1, 1974.

**Sec. 4.** Article V of Chapter 115 of the General Statutes shall be applicable to the Hyde County Board of Education except as modified by this act.

**Sec. 5.** This act shall be applicable only to Hyde County.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2060

**CHAPTER 1167**

AN ACT TO PERMIT THE COUNTY COMMISSIONERS OF TYRRELL COUNTY TO APPOINT THE TYRRELL COUNTY BOARD OF ALCOHOLIC CONTROL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-16, as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes, is hereby modified with regard to Tyrrell County as follows:

“The provisions of G.S. 18A-16 notwithstanding, the members of the Tyrrell County Board of Alcoholic Control shall be selected initially and in the event of vacancies, and shall be removed by majority vote of the Board of County Commissioners of Tyrrell County. However, except as expressly modified by the foregoing, G.S. 18A-16 shall remain in effect with regard to the Tyrrell County Board of Alcoholic Control.”

**Sec. 2.** This act shall apply to appointments made after the expiration of all terms now being served, and to vacancies occurring or continuing after the effective date of this legislation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2080

**CHAPTER 1168**

AN ACT TO AUTHORIZE THE GASTON COUNTY BOARD OF COMMISSIONERS TO SET THE COMPENSATION OF THE MEMBERS OF THE GASTON COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any provision of G.S. 115-29 notwithstanding, the Gaston County Board of Commissioners shall fix the compensation of the members of the Gaston County Board of Education.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2082

**CHAPTER 1169**

AN ACT TO PROVIDE THAT ABSENTEE VOTING SHALL BE PERMITTED IN ALL MUNICIPAL ELECTIONS IN THE CITIES OF GREENSBORO AND HIGH POINT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes shall be applicable to all municipal elections and primaries in the cities of Greensboro and High Point, provided that absentee ballots shall not be permitted in a second primary or runoff election. The Guilford County Board of Elections shall administer the absentee voting laws for all municipal elections in the cities of Greensboro and High Point and is hereby authorized to adopt rules and regulations which may be necessary to adapt the procedures of Articles 20 and 21 of Chapter 163 to municipal elections.

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. B. 2094

**CHAPTER 1170**

AN ACT TO FIX THE COMPENSATION OF MEMBERS OF THE NEW BERN CITY SCHOOL DISTRICT BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any provision of G.S. 115-29 notwithstanding, the compensation of the members of the New Bern City School District Board of Education shall be fifty dollars (\$50.00) per month for the chairman and twenty-five dollars (\$25.00) per month for each other member.

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**H. B. 2096                      CHAPTER 1171**

AN ACT TO ELIMINATE MADISON COUNTY'S EXEMPTION FROM THE APPLICATION OF G.S. 47-30 CONCERNING THE RECORDING OF PLAT AND SUBDIVISION MAPS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-30(k) is hereby amended by deleting the word "Madison" which appears on line 4 thereof.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

**S. B. 1122                      CHAPTER 1172**

AN ACT TO RATIFY, APPROVE, CONFIRM AND VALIDATE ALL PROCEEDINGS TAKEN BY THE GOVERNING BOARDS OF UNITS OF LOCAL GOVERNMENT IN CONNECTION WITH THE AUTHORIZATION OF BONDS OF SAID UNITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** All proceedings heretofore taken by the Governing Boards of Units of Local Government in connection with the authorization of bonds are hereby ratified, approved, confirmed and in all respects validated, notwithstanding the provisions of G.S. 159-56; provided that the issuance of said bonds, the indebtedness to be incurred by the issuance thereof and the levy of a tax for the payment thereof shall have been approved at an election by a majority of the qualified voters of the Unit voting thereon.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

**H. B. 747                      CHAPTER 1173**

AN ACT TO PROVIDE FOR ANNEXATION BY CITIES OF AREAS NOT CONTIGUOUS TO THE CORPORATE LIMITS UPON UNANIMOUS PETITION OF THE PROPERTY OWNERS IN SUCH AREAS.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is hereby declared as a matter of State policy that legislation authorizing annexation by cities of areas not contiguous to their corporate limits should be uniform for all cities having such authority.

**Sec. 2.** Article 36 of Chapter 160 of the General Statutes is amended by inserting a new Part therein as follows:

    "Part 4. Annexation of Noncontiguous Areas.

    "§ 160-453.25. *Definitions.*—The words and phrases defined in this section have the meanings indicated when used in this Part unless the context clearly requires another meaning:

    (1) 'City' means any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.

    (2) 'Primary corporate limits' means the corporate limits of a city as defined in its Charter, enlarged or diminished by subsequent annexations or exclusions

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of contiguous territory pursuant to Parts 1, 2, and 3 of this Article or local acts of the General Assembly.

(3) 'Satellite corporate limits' means the corporate limits of a noncontiguous area annexed pursuant to this Part or a local act authorizing or effecting noncontiguous annexations.

"§ 160-453.26. *Petition for annexation; standards.*—(a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city;
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

(c) The petition shall contain the names, addresses, and signatures of all owners of real property within the proposed satellite corporate limits (except owners not required to sign by subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall have attached thereto a map showing the area proposed for annexation with relation to the primary corporate limits of the annexing city. When there is any substantial question as to whether the area may be closer to another city than to the annexing city, the map shall also show the area proposed for annexation with relation to the primary corporate limits of the other city. The city council may prescribe the form of the petition.

"§ 160-453.27. *Public hearing.*—Upon receipt of a petition for annexation under this Part, the city council shall cause the city clerk to investigate the petition, and to certify the results of his investigation. If the clerk certifies that upon investigation the petition appears to be valid, the council shall fix a date for a public hearing on the annexation. Notice of the hearing shall be published once at least 10 days before the date of hearing.

At the hearing, any person residing in or owning property in the area proposed for annexation and any resident of the annexing city may appear and be heard on the questions of the sufficiency of the petition and the desirability of the

annexation. If the council then finds and determines that (i) the area described in the petition meets all of the standards set out in G.S. 160-453.26(b), (ii) the petition bears the signatures of all of the owners of real property within the area proposed for annexation (except those not required to sign by G.S. 160-453.26(a)), (iii) the petition is otherwise valid, and (iv) the public health, safety and welfare of the inhabitants of the city and of the area proposed for annexation will be best served by the annexation, the council may adopt an ordinance annexing the area described in the petition. The ordinance may be made effective immediately or on any specified date within six months from the date of passage.

“§ 160-453.28. *Annexed area subject to city taxes and debts.*—From and after the effective date of the annexation ordinance, the annexed area and its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits as other parts of the city. The newly annexed area is subject to city taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the city shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of January 1. If the effective date of annexation falls between June 1 and June 30, and the privilege licenses of the annexing city are due on June 1, then businesses in the annexed area are liable for privilege license taxes at the full year rate.

“§ 160-453.29. *Extraterritorial powers.*—Satellite corporate limits shall not be considered a part of the city’s corporate limits for the purposes of extraterritorial land use regulation pursuant to G.S. 160A-360, or abatement of public health nuisances pursuant to G.S. 160A-193. However, a city’s power to regulate land use pursuant to G.S. Chapter 160A, Article 19, or to abate public health nuisances pursuant to G.S. 160A-193, shall be the same within satellite corporate limits as within its primary corporate limits.

“§ 160-453.30. *Special rates for water, sewer and other enterprises.*—For the purposes of G.S. 160A-314, provision of public enterprise services within satellite corporate limits shall be considered provision of service for special classes of service distinct from the classes of service provided within the primary corporate limits of the city, and the city may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed and enforced within the primary corporate limits. A city providing enterprise services within satellite corporate limits shall annually review the cost thereof, and shall take such steps as may be necessary to insure that the current operating costs of such services, excluding debt service on bonds issued to finance services within satellite corporate limits, does not exceed revenues realized therefrom.

“§ 160-453.31. *Transition from satellite to primary corporate limits.*—An area annexed pursuant to this Part ceases to constitute satellite corporate limits and becomes a part of the primary corporate limits of a city when, through annexation of intervening territory, the two boundaries touch.”

**Sec. 3.** The following local acts, having served their purpose and being no longer necessary, are hereby repealed:

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Article XIV of the Charter of the Town of Benson, as enacted in Chapter 623, Session Laws of 1971.

Chapter 715, Session Laws of 1969 (City of Fayetteville).

Chapter 989, Session Laws of 1967 (City of Raleigh).

Chapter 36, Session Laws of 1973 (City of Wilmington).

Chapter 112, Session Laws of 1973 (Town of Nashville).

Chapter 164, Session Laws of 1973 (Town of Selma).

Chapter 188, Session Laws of 1973 (Town of Kure Beach).

Chapter 276, Session Laws of 1973 (Town of Benson).

Chapter 375, Session Laws of 1973 (City of Rocky Mount).

Chapter 427, Session Laws of 1973 (City of Jacksonville).

Chapter 651, Session Laws of 1973 (Town of Carolina Beach).

Chapter 984, Session Laws of 1973 (Town of Manteo).

Repeal of the foregoing acts does not invalidate any action taken thereunder before the effective date of this act. Any annexations heretofore accomplished under authority of any of the foregoing acts shall be considered to have been made under authority of this act, and are hereby ratified and confirmed as fully as if they had been made hereunder. Any annexations heretofore begun under authority of any of the foregoing acts but not fully accomplished as of the effective date of this act may be completed pursuant to such act or acts, and shall be governed by the provisions of such act or acts, notwithstanding the repeal of such act or acts by this act.

**Sec. 4.** If a provision of this act or the application of a provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**Sec. 5.** All laws and clauses of laws in conflict with the provisions of this act are repealed.

**Sec. 6.** This act is effective July 1, 1974.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

## H. B. 2102

## CHAPTER 1174

AN ACT TO AMEND CHAPTER 262, 1967 SESSION LAWS, RELATIVE TO THE COMPENSATION PROVIDED TO MEMBERS OF THE VANCE COUNTY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Any provision of G.S. 115-29 notwithstanding, Section 10 of Chapter 262, 1967 Session Laws, is amended by rewriting said section as follows:

“Sec. 10. The Vance County Board of Education may fix the compensation for each of its members, not to exceed the sum of one hundred fifty dollars (\$150.00) per month except for the position of Chairman of the Board, compensation for which shall not exceed the sum of two hundred dollars (\$200.00) per month. The Vance County Board of Education shall hold at least one meeting each month but may hold as many meetings as are necessary.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 2103

**CHAPTER 1175**

AN ACT PROVIDING FOR THE NOMINATION AND ELECTION OF THE MEMBERS OF THE REIDSVILLE CITY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Reidsville City Board of Education shall consist of six members who shall be elected in nonpartisan elections at large by the from the qualified voters of the Reidsville graded school district for terms of four years. The elections of Board members shall be conducted at the same time the elections for municipal officers for the City of Reidsville are held.

**Sec. 2.** Dr. C. Hunter Moricle, Jr., Bernard Jones, and Kenneth Wicker, who were elected to the Board of Education in November, 1973, shall take office on the first Monday in July, 1974, and shall serve until the first Monday in January, 1978, or until their successors are elected and qualified. At the elections to be held in November, 1975, there shall be elected three members to the Board of Education who shall take office the first Monday in July, 1976, and who shall serve until the first Monday in January, 1980, or until their successors are elected and qualified. Thereafter, biennially at the time of the elections for municipal officers for the City of Reidsville are held, three members of the Board of Education shall be elected to succeed those members whose terms expire.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 2106

**CHAPTER 1176**

AN ACT TO RATIFY, CONFIRM AND VALIDATE THE ELECTION HELD TO INCORPORATE THE TOWN OF PINE KNOLL SHORES PURSUANT TO CHAPTER 265, SESSION LAWS OF 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** The special election held to incorporate the Town of Pine Knoll Shores and to elect the Town Board of Commissioners, as required by Sections 1 through 5 of Chapter 265, Session Laws of 1973, is hereby ratified, confirmed, and validated in every respect. The Town of Pine Knoll Shores is hereby declared to be properly incorporated and the Town Commissioners properly elected as of the date of the special election held pursuant to Chapter 265, Session Laws of 1973, and all of the official acts of the Town Board of Commissioners performed in accordance and pursuant to law are hereby confirmed, ratified and validated in every respect.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 2123

CHAPTER 1177

AN ACT TO AUTHORIZE SUPPLEMENTAL COMPENSATION FOR FULL-TIME EMPLOYEES OF THE CITY OF FAYETTEVILLE PERMANENTLY DISABLED AS THE RESULT OF CRIMINAL ASSAULT IN PERFORMANCE OF OFFICIAL DUTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall apply only to the full-time employees of the City of Fayetteville, and the word "employee" as used in this act shall mean such employees of the City of Fayetteville.

**Sec. 2.** Whenever it is determined that any employee is injured as the result of a criminal assault committed upon him in the performance of official duty and that such injury resulted in the total, permanent disability of such employee, as herein defined, the City is authorized to pay such employee such sum which, together with all other compensation he shall receive under The Workmen's Compensation Act, disability benefits or other compensation provided by the employing governmental unit, will equal his regular monthly salary at the time of injury, subject to any increase or decrease in salary being paid by said City for the same duty from year to year.

**Sec. 3.** In addition to the salary compensation, the City is authorized to pay all medical expenses incurred by any employee determined to be eligible for benefits under this act, the payment of which is not otherwise provided for under The Workmen's Compensation Act, or insurance coverages participated in by said City. Such medical expenses shall be limited to those required for proper treatment of the injuries sustained by the employee and shall include drugs, hospital care, rehabilitation treatment and equipment, physicians' bills, and medical examinations. The City is not liable for any expenses paid by a third party who contributed to the injury of the employee in the event recovery is made by the employee for the same.

**Sec. 4.** Total disability as used in this act shall be construed to include any case wherein the employee has suffered the loss of both arms, or both legs or both eyes, or is rendered totally deaf; or has a total disability rating of 75 per cent or more due to loss of main bodily functions.

**Sec. 5.** Written application for benefits under this act shall be made by the injured employee to the Fayetteville City Council accompanied by a certification as to the nature and extent of disability by a licensed physician. The City Council may make a determination of eligibility and direct payment of benefits or may in its discretion refer the case to a Commission for determination. The Fayetteville City Council shall, in cases before that body, have a right to issue subpoenas for all witnesses and medical records which it deems necessary to determine entitlement to compensation under this act.

**Sec. 6.** In its discretion, the Fayetteville City Council, may, by resolution, appoint a Law Enforcement Disability Commission of three members to make a determination of entitlement to compensation under the act, or eligibility for continuance of the same. At least one member of the Commission shall be a licensed physician. Such Commission shall serve for the term prescribed in the Resolution creating the Commission. The Commission shall have the right to issue subpoenas for all witnesses and medical records which it deems necessary to determine entitlement to compensation under this act. The City will furnish the Commission necessary personnel and equipment

for taking and recording testimony and the maintenance of records of all its proceedings. In any proceeding of the Commission wherein evidence and testimony is received, the employee whose case is being considered will be given the opportunity to be present and be represented by a licensed attorney. The Commission will review any case referred to it by the attorney to determine eligibility for continuation of compensation. The Commission shall have full authority to promulgate all rules and regulations necessary to properly perform its function and to afford due process of law to each employee in the consideration of all hearings conducted. Upon conclusion of its deliberation such Commission shall file a written report of its findings and determination with the Fayetteville City Council, a copy of which shall be furnished the employee concerned. The determination of the appropriate Commission shall be final, subject only to judicial review.

**Sec. 7.** Any employee seeking benefits under this act shall waive patient and physician relationship and execute a written authorization for all medical records and statements of the attending physicians to be available to the City or the Disability Commission including all testimony, if any, to be given by any physician before the Commission. The employee shall also waive and release any other medical information of record at a hospital or other facility. The employee shall further be required to report to any doctor or other qualified medical examiner designated by the City or the Disability Commission, and failure to so report and submit to treatment or examination and to further cooperate shall preclude or terminate benefits under this act, upon a finding by the City or Commission that such failure to report and be examined as directed is without just cause or excuse on the part of the employee.

**Sec. 8.** In the event the employee is offered work at a lesser salary by the City, even though he is injured as hereinbefore set out, then the salary by said City shall be deducted from benefits allowed hereunder, so long as the employee works. Upon his being unable to work or upon involuntary resignation of said employment, all benefits awarded hereunder shall immediately be paid to the employee, unless terminated as hereinbefore set forth. Payments of medical expenses before or after the award shall not be deducted from the salary of the employee.

**Sec. 9.** All the provisions of this act shall be supplemental to and shall not in any way repeal, amend or rescind the Workmen's Compensation Act of the State of North Carolina.

**Sec. 10.** Wherever in this act the masculine gender appears, it is to be construed feminine in appropriate cases of female employees.

**Sec. 11.** This act shall apply only to the City of Fayetteville.

**Sec. 12.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 2140

**CHAPTER 1178**

**AN ACT TO PROVIDE FOR THE NOMINATION AND ELECTION OF MEMBERS OF THE WAYNE COUNTY BOARD OF EDUCATION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Wayne County Board of Education shall consist of seven members who shall serve for terms of four years and until their successors are elected and qualified. The term of office of each member shall begin on the first Monday in December, next succeeding his election, and shall continue until a successor has been elected and qualified.

**Sec. 2.** In the primary election to be held in 1974, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated, two candidates for nomination as members of the Wayne County Board of Education. The names of the persons so nominated by each political party shall be placed on the official county ballots of Wayne County, and shall be voted upon by the qualified voters of the county at large in the general election of 1974. In the primary election to be held in 1976, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated, three candidates for nomination as members of the Wayne County Board of Education. The names of the persons so nominated by each political party shall be placed on the official county ballots of Wayne County, and shall be voted upon by the qualified voters of the county at large in the general election of 1976. In the primary election to be held in 1978, there shall be nominated by each political party in the party primaries at the same time and in the same general manner as that in which other county officers are nominated, four candidates for nomination as members of the Wayne County Board of Education. The names of the persons so nominated by each political party shall be placed on the official county ballots of Wayne County, and shall be voted upon by the qualified voters of the county at large in the general election of 1978. Biennially thereafter, members of the Board of Education who are candidates to succeed the members whose terms shall expire shall be elected for a term of four years in the same manner as herein provided.

**Sec. 3.** Except as herein provided, the Plan of Consolidation and Merger as entered into on July 31, 1967, between the Fremont City Board of Education and the Wayne County Board of Education shall continue in full force and effect.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

S. B. 933

## CHAPTER 1179

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF LIQUOR STORES IN THE TOWN OF CALABASH, AND FOR THE DISTRIBUTION OF THE PROCEEDS FROM THE OPERATION OF LIQUOR STORES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of Commissioners of the Town of Calabash shall order an election to be held on July 10, 1974, on the question of whether or not a town liquor control store may be operated in the Town of Calabash and if a majority of the votes cast in such election shall be for the operation of such a store, it shall be legal for a liquor control store to be set up and operated in said town, but if a majority of the votes cast in said election shall be against the operation of a town liquor control store, no such store shall be set up or operated in said town under provisions of this act. The special election shall be held on July 10, 1974, by the County Board of Elections.

**Sec. 2.** In calling for such special liquor election, the said board shall give at least 20 days' public notice of the same prior to the closing of the registration books, and said registration books shall remain open for the same period of time before such special liquor election as is required by law for them to remain open for a regular town election. A new registration of voters for such special liquor election shall not be necessary and all qualified electors who are properly registered prior to registration for the special election and those who register in said special liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Town Liquor Control Store", "Against Town Liquor Control Store". Those favoring setting up and operating a liquor store in the Town of Calabash shall mark in the voting square to the left of the words "For Town Liquor Control Store", printed on the ballot; and those opposed to a town liquor control store shall mark in the voting space to the left of the words "Against Town Liquor Control Store". Except as otherwise herein provided, the special election authorized shall be conducted under the same statutes, rules, and regulations applicable to regular elections in the town.

**Sec. 3.** The board may on its own motion, and shall upon a petition signed by fifteen percent (15%) of all registered voters of the town, call a subsequent election for the purpose of voting "For" or "Against" liquor control stores. If a subsequent election shall be held and at such election a majority of the votes shall be cast "Against Town Liquor Control Store", the town liquor control board shall within three months from the canvassing of such votes and the declaration of the result thereof close said store and shall thereafter cease to operate the same, and within said three months the town control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the town treasurer. Thereafter, all Public, Public-Local, and Private Laws applicable to the sale of intoxicating beverages within said town in force and effect prior to the authorization to operate a town liquor store shall be in full force and effect the same as if such election had not been held until and unless another election is held under the provisions of this act in which a majority of the votes shall be cast "For Town Liquor Control Store". No election shall be called and held in the town under the provisions of this act

within three years from the holding of the last election thereunder. It shall be the duty of the Board of Commissioners of the town to order the special liquor election herein authorized within 60 days after a sufficient petition has been filed requesting the same. But no election under this act shall be held on the day of any biennial county or town general election or primary election, or within 30 days of any such election.

**Sec. 4.** If the operation of a town liquor control store is authorized under the provisions of this act, the Mayor and Board of Commissioners of the Town of Calabash shall immediately create a town board of alcoholic control to be composed of a chairman and two other members who shall be well known for their character, ability and business acumen. Said board shall be known and designated as "The Town of Calabash Board of Alcoholic Control". The chairman of said board shall be designated by the mayor and governing body of the town and shall serve for his first term a period of three years and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year; and all terms shall begin with the date of their appointment, and after the said terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the board shall be named or filled by the mayor and the governing body of the town.

**Sec. 5.** The said Town of Calabash Board of Alcoholic Control shall have all the powers and duties imposed by the General Statutes on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in the General Statutes. The said Town of Calabash Board of Alcoholic Control and the operation of any town liquor store authorized under the provisions of this act shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same may be in conflict with the provisions of this act. Wherever the word "county" board of alcoholic control appears in said Chapter, it shall include the Town of Calabash Board of Alcoholic Control.

**Sec. 6.** The net profits derived from the operation of liquor control stores in the Town of Calabash shall, after deducting necessary working capital, salaries, and expenses, be distributed quarterly as follows:

70% to the general fund of the town to be used for any lawful purpose.

5% to the Union Elementary School.

5% to the Shallotte Middle School.

5% to the West Brunswick High School.

15% to the Volunteer Fire Department for the purpose of providing fire protection to the Town of Calabash.

**Sec. 7.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 1752 CHAPTER 1180

AN ACT TO AMEND G.S. 105-304 TO MAKE CLEAR WHERE CERTAIN TANGIBLE PERSONAL PROPERTY IS TO BE LISTED FOR TAXATION AND TO AMEND AND CLARIFY THE STATUTES RELATING TO THE VALUATION OF THE PROPERTY OF PUBLIC SERVICE COMPANIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subchapter II of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting subdivision (3) of subsection (f) of G.S. 105-304 and inserting the following two subdivisions in its place:

“(3) Tangible personal property situated at or commonly used in connection with a premise owned, hired, occupied, or used by a person who is in possession of the personal property under a business agreement with the property’s owner shall be taxable at the place at which the possessor’s premise is situated. For purposes of this subdivision (f)(3), the term ‘business agreement’ means a commercial lease, bailment for hire, consignment, or similar business arrangement.

(4) In applying the provisions of subdivision (f)(1), (f)(2), and (f)(3), above, the temporary absence of tangible personal property from the place at which it is taxable under one of those subdivisions on the day as of which property is to be listed shall not affect the application of the rules established in those subdivisions. The presence of tangible personal property at a location specified in subdivision (f)(1), (f)(2), or (f)(3) on the day as of which property is to be listed shall be prima facie evidence that it is situated at or commonly used in connection with that location.”

(b) Rewriting subdivisions (10), (12), (15) and (17) of G.S. 105-333 to read as follows:

“(10) ‘Motor freight carrier’ company means a public service company engaged in the business of transporting property by motor vehicle for hire over the public highways of this State as herein provided:

(a) As to interstate carrier companies domiciled in North Carolina, this definition shall include carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier outside this State or two or more terminals inside this State. For purposes of appraisal and allocation only, the definition shall also include a North Carolina interstate carrier which does not have a terminal outside this State but whose operations outside the State are sufficient to require the payment of ad valorem taxes on a portion of the value of the rolling stock of such carrier to taxing units in one or more other states.

(b) As to interstate carrier companies domiciled outside this State, this definition shall include carriers who regularly transport property by tractor trailer to or from one or more terminals owned or leased by the carrier inside this State.

(c) As to intrastate carrier companies, this definition shall include only those carriers which are engaged in the transportation of property by tractor trailer to or from two or more terminals owned or leased by the carrier in this State.

(12) 'Nonsystem property' means the real and tangible personal property owned by a public service company but not used in its public service activities.

(15) 'Railroad company' means a public service company engaged in the business of operating a railroad to, from, within or through this State on rights-of-way owned or leased by the company. It also means a company operating a passenger service on the lines of any railroad located wholly or partly in this State.

(17) 'System property' means the real property and tangible and intangible personal property used by a public service company in its public service activities. It also means public service company property under construction on the day as of which property is assessed which when completed will be used by the owner in its public service activities."

(c) Rewriting subdivision (b)(2) of G.S. 105-335 to read as follows:

"(2) Nonsystem personal property. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) each public service company's nonsystem tangible personal property subject to taxation in this State."

(d) Rewriting subdivisions (c)(1) and (c)(2) of G.S. 105-335 and renumbering (c)(2) to (c)(3) to read as follows:

"(1) Bus company rolling stock. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the rolling stock owned or leased by or operated under the control of each bus line company, which bus line company is domiciled in this State or which is regularly engaged in business in this State.

(2) Motor freight carrier company rolling stock. Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees which motor freight carrier company is domiciled in this State or is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. Each year, as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State."

(e) Rewriting subdivision (c)(2) of G.S. 105-338 to read as follows:

"(2) The appraised valuation of the rolling stock (other than locally assigned rolling stock) owned or leased by a motor freight carrier company shall be allocated for taxation to each local taxing unit in which the company has a terminal according to the ratio of the tons of freight handled in the calendar year preceding January 1 at the company's terminals within the taxing unit to the total tons of freight handled by the company in this State in the same period. If a North Carolina interstate motor freight carrier company has no terminal outside this State, but has been required to pay ad valorem tax to one or more taxing units outside this State, there shall be allowed a reduction in the North Carolina valuation measured by the ratio of the rolling stock subject to ad valorem taxation outside the State to all of the carrier's rolling stock."

(f) Rewriting G.S. 105-276 to read as follows:

"§ 105-276. *Taxation of intangible personal property.*—Except for the classes of intangible personal property which have been classified for taxation under



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H. B. 1921

CHAPTER 1183

AN ACT RELATING TO FEES COLLECTIBLE BY THE BOARD OF PHARMACY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-60, as it appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina, and as it was rewritten by Chapter 676 of the Session Laws of 1965, is hereby amended by rewriting the first sentence thereof to read as follows:

“The Board of Pharmacy shall be entitled to charge and collect not more than the following fees: For the examination of an applicant for license as a pharmacist, forty dollars (\$40.00); for renewing the license as a pharmacist, twenty-five dollars (\$25.00); for renewing the license of an assistant pharmacist, ten dollars (\$10.00); for licenses without examination as provided in G.S. 90-64, original, one hundred dollars (\$100.00), and renewal thereof, twenty-five dollars (\$25.00); for original registration of a drugstore, one hundred dollars (\$100.00), and renewal thereof, fifty dollars (\$50.00); for issuing a permit to a physician to conduct a drugstore in a village of not more than 500 inhabitants, ten dollars (\$10.00); for the renewal of permit to a physician to conduct a drugstore in a village of not more than 500 inhabitants, five dollars (\$5.00).”

**Sec. 2.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 3.** This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

H. B. 1951

CHAPTER 1184

AN ACT TO ANNEX TO THE CITY OF CONCORD ALL TERRITORY LYING WITHIN ITS OUTERMOST BOUNDARIES AND NOT PREVIOUSLY ANNEXED OR INCORPORATED.

Whereas, over the years the City of Concord has extended its boundaries by annexation of contiguous territory in accordance with procedures set forth in the General Statutes of North Carolina; and

Whereas, as a result of these annexations, there now exist several islands of unincorporated territory lying totally within the outermost boundaries of the City of Concord; and

Whereas, the protection of property and the provision of police protection, fire protection and other city services makes the annexation of these islands of unincorporated territory to the City of Concord desirable and in the public interest; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** All unincorporated territory lying totally within the outermost boundaries of the City of Concord as shown on the official map of the City of Concord on file in the office of the City Clerk on the effective date of this act is annexed to the City of Concord.

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

**H. B. 2132                      CHAPTER 1185**

**AN ACT RELATING TO THE LETTING OF CONTRACTS AND THE PURCHASE OF MOTOR VEHICLES BY THE CITY OF WINSTON-SALEM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 224 of the 1951 Session Laws, as amended by Chapter 805 of the 1967 Session Laws, is hereby amended by striking out in line 3 the words and figures, “three thousand dollars (\$3,000)”, and by inserting in lieu thereof the words and figures, “five thousand dollars (\$5,000)”.

**Sec. 2.** This act shall apply only to the City of Winston-Salem and to the County of Forsyth.

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

**H. B. 2070                      CHAPTER 1186**

**AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF ORIENTAL.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Corporate limits of the Town of Oriental shall be enlarged by the addition of the following described area:

BEGINNING at a point in the southern Right of Way of N. C. Highway 55 (Broad Street), located the following courses and distances from the intersection of N. C. Highway 55 and SR 1317 in Oriental, N. C. North 46° 12' East, 197.80 feet; South 45° 32' East, 30.00 feet; From this point of BEG. South 21° 03' West, 623.91 feet; along a ditch to the North East corner of Walter Paris Estate thence along a ditch with the eastern line of the W. P. Estate the following courses and distances, South 48° 58' East, 68.85 feet; South 48° 45' East, 119.71 feet; South 49° 14' East, 128.83 feet; South 45° 45' East, 101.65 feet to the South West corner of a subdivision of Garland Fulcher; thence with the extension of the previous line South 45° 45' East 20 feet plus or minus to the edge of the Northern Right of Way line of Third Avenue; thence with the Northern line of Third Avenue and an extension of said Avenue 870 feet plus or minus; thence North 19° 26' West, 85 feet plus or minus to the South East corner of the said subdivision of Garland Fulcher; thence along and with the marked Boundry between the Dolphin Co. of Oriental and Garland Fulcher Subdivision, the following courses and distances, North 19° 26' West, 415.70 feet; North 12° 21' West, 631.00 feet; North 48° 36' West, 175.48 feet; North 57° 56' West, 170.72 feet to the Southern edge of Right of Way of N. C. 55; thence North 57° 56' West 60 feet plus or minus to the Northern edge of Right of Way of N. C. 55 (Broad Street); thence along and with the Northern edge of Right of Way of N. C. (Broad Street) 700 feet plus or minus to a point that is

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South 43° 50' East, 60 feet plus or minus from the Beginning: thence South 43° 50' East, 60 feet plus or minus to the Beginning.

The above description is intended to encompass all those lands and Right of Ways that are bounded on the North by N. C. 55 (Broad Street), on the South by Third Avenue in Oriental, on the East by the Dolphin Co. of Oriental, and on the West by Church Street in Oriental, that are not presently included in the city limits of Oriental, N. C.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

## H. B. 2088                      CHAPTER 1187

AN ACT TO AMEND CHAPTER 910 OF THE 1971 SESSION LAWS OF NORTH CAROLINA BEING THE CHARTER OF THE CITY OF GASTONIA IN GASTON COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 910 of the 1971 Session Laws of North Carolina being the Charter of the City of Gastonia is hereby amended as follows:

A. Section 3.22(a) is rewritten to read:

“He shall appoint and suspend or remove all city employees, except the city attorney, the city tax collector and the city clerk in accordance with such general personnel rules, regulations, policies, or ordinances as the council may adopt.”

B. Section 3.61 is rewritten to read:

“The council shall appoint a city clerk to serve at its pleasure. He shall give notice of meetings of the council, keep a journal of the proceedings of the council, be custodian of all city records entrusted to him, and shall perform any other duties that may be required by law, by the council or by the city manager. In addition, the council may appoint or provide for one or more deputy city clerks who shall have full authority to exercise and perform any of the powers and duties of the city clerk that it may specify.”

C. Section 3.162(a) is rewritten to read:

“Private sale or sale by sealed bids may be used only with respect to personal property valued at less than five thousand dollars (\$5,000) for any one item or group of similar items. When the council proposes to dispose of property by either of these means, it shall at a regular council meeting adopt a resolution authorizing an appropriate city official to dispose of the property by private sale at a negotiated price or by sealed bids. The resolution shall identify the property to be sold and may, but need not, specify a minimum price. The resolution shall be published once after its adoption in a newspaper of general circulation in the city, and no sale shall be consummated thereunder until ten days after its publication.”

D. Section 5.17 is rewritten to read:

“In case any charge for utility service or for the use of utility facilities is not paid within ten days after it becomes due, the same shall become a lien upon the real property served or in connection with which the service or facility is used and upon all personal property situated upon such real property. The charge may at any time thereafter be collected, either by suit in the name of the city or by the city tax collector, through the sale of the property upon which the lien

attaches at the Gaston County courthouse door, after advertising the sale once a week for four successive weeks in some newspaper published in the city which is qualified to carry legal notices. The sale shall be made under the same rules and regulations, and subject to the same costs and penalties and to the same rights of redemption as are provided by law for the foreclosure of the lien on personal property and on real estate for taxes.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

## H. B. 2139 CHAPTER 1188

### AN ACT TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF BAYBORO.

*The General Assembly of North Carolina enacts:*

**Section 1.** The corporate limits of the Town of Bayboro are hereby increased and extended to add the following described areas:

“AREA No. 1. BEGINNING in the southern edge of the right of way of the Norfolk-Southern Railroad at the western boundary of the Town of Bayboro, and running northwardly to and with the centerline of a field ditch, the west line of the Oliver Credle land, about 775 feet to the south line of Weyerhaeuser Company’s Campen Tract, which is shown on a map made by H. L. Raburn, R. L. S., dated October 16, 1948 and recorded in Map Book 1A at page 151, Pamlico County Registry; thence eastwardly along said Weyerhaeuser Company’s line to and with a branch about 2,300 feet to the western boundary of the Town of Bayboro; thence southwardly along the said Town line about 1,000 feet to a corner in said line in the southern line of the Norfolk-Southern Railroad right of way; thence westwardly along said railroad right of way line about 2,250 feet to the point of BEGINNING.

AREA No. 2. BEGINNING in the mouth of a branch on the north side of the Northwest Prong of Bay River at the southeast corner of Marcellus Cobb’s North Bayboro Subdivision land, acquired by him from Mrs. Wm. B. Rodman, it being one of the present western boundaries of the Town of Bayboro, and running northwardly along and with said branch and Town boundary about 2,100 feet to the Mill Pond Road (N. C. Secondary Road 1203); thence crossing said road and running northwardly with a ditch centerline, the eastern boundary of the Herbert Davis land, about 300 feet to a corner in the Town line; thence eastwardly with the Town line about 175 feet to the eastern edge of the Daniel B. Hooker Field Road; thence northwardly with said road edge about 500 feet to opposite the centerline of the ditch which divides the Herbert Davis land from the John Weskett land; thence northwestwardly to and with the centerline of said ditch and with said Weskett southern boundary about 2,000 feet to the western edge of the Bay City Road (N. C. Secondary Road 1002); thence southwardly with said road edge about 800 feet to the northern edge of the Mill Pond Road; thence northwestwardly with said road edge about 80 feet to the centerline of the first intersecting field ditch; thence southwestwardly across the road and with a field ditch centerline, the eastern line of the lands of Gatlin Brothers, about 550 feet to a ditch intersection, a corner in the Gatlin line; thence southeastwardly with another ditch centerline about 250 feet; thence southwestwardly with a ditch centerline and the east line of the Gatlin land

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about 1,700 feet to the Northwest Prong of Bay River (the Town line); thence southeastwardly with said river about one-half mile to the point of BEGINNING.

AREA No. 3. BEGINNING in the mouth of a ditch on the north side of the Northwest Prong of Bay River in the Town line, and running northwardly with said ditch and Town line about 1,400 feet to the northern edge of the Old Road leading to Maribel (N. C. Secondary Road 1209); thence eastwardly with said road edge about 3,900 feet to opposite the northeast corner of the McKinley Dudley land; thence southwardly crossing the road and running with a ditch centerline and the east line of the said McKinley Dudley land about 1,700 feet to the Northwest Prong of Bay River; thence westwardly with the river about one mile to the point of BEGINNING."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

## H. B. 2141                      CHAPTER 1189

AN ACT TO ALTER THE BOUNDARY LINES OF THE KINSTON GRADED SCHOOL DISTRICT TO REDUCE THE AREA ENCOMPASSED THEREBY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The boundary lines of the Kinston Graded School District are hereby amended to reduce the area encompassed thereby by the elimination of that area presently located south of the Neuse River. Except as hereby altered by this act, said district area shall remain the same until otherwise changed as by law provided.

The area being deleted from the Kinston Graded School District, that is, the area located south of the Neuse River, shall become a part of the Lenoir County School District until otherwise changed, as by law provided.

**Sec. 2.** This act shall not upon ratification alter House Bill 780 of Chapter 499 of the Session Laws of North Carolina, 1967, as it affects Kinston City Administrative School Unit.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 5th day of April, 1974.

## S. B. 977                      CHAPTER 1190

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF THE STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The appropriations made herein are intended to be for maximum amounts necessary to provide the services and accomplish the purposes described in the Budget. It is the intent of the General Assembly that savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and that, except as allowed by the Executive Budget Act, or as hereinafter provided, such savings shall be reverted to the appropriate fund at the end of the fiscal year.

GENERAL FUND

Sec. 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are hereby made for the fiscal year ending June 30, 1975, according to the following schedule:

	<u>1974-75</u>
General Assembly	\$ 4,850,787
Judicial Department	39,943,325
The Governor's Office	667,301
The Lieutenant Governor	112,460
Department of Administration	15,345,371
Department of Secretary of State	446,143
Department of State Auditor	5,040,466
Department of State Treasurer	4,279,684
Department of Justice	8,851,835
Department of Revenue	14,508,654
Department of Military & Veterans' Affairs	3,300,957
Department of Commerce	4,694,924
Department of Insurance	2,610,152
Department of Labor	2,280,091
Department of Social Rehabilitation & Control	65,962,898
Department of Public Education	789,306,677
1. Department of Public Instruction	\$ 4,362,470
2. State Public School Fund	734,188,362
3. State Board of Education	2,299,233
4. Occupational Education	41,183,041
5. Program of Education by Television	438,242
6. Advancement School	920,589
7. School Food Service	2,946,521
8. Professional Improvement of Teachers	1,006,429
9. Planning, Research & Development	1,203,554
10. Evaluation & Assessment	758,236
Department of Community Colleges	108,934,818
1. Department of Community Colleges	96,468,246
2. Department of Community Colleges - Equipment	12,228,188
3. Vocational Textile School	238,384
The University of North Carolina Board of Governors	67,268,874
1. General Administration	3,210,129
2. Institutional Programs	
a. Institutional Programs	39,331,073
b. Reserve for Additional	

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School of Medicine	7,500,000	
c. Academic Salary		
Increases	10,222,122	
3. Related Educational Programs	7,005,550	
University of North Carolina at Chapel Hill		55,342,145
1. Academic Affairs	34,106,338	
2. Division of Health Affairs	21,235,807	
North Carolina State University at Raleigh		46,423,714
1. Academic Affairs	28,790,707	
2. Industrial Extension Service	619,173	
3. Agricultural Experiment Station	9,650,330	
4. Agricultural Extension Service	7,363,504	
University of North Carolina at Greensboro		11,707,395
University of North Carolina at Charlotte		9,092,025
University of North Carolina at Asheville		2,133,345
University of North Carolina at Wilmington		3,966,203
East Carolina University		14,738,900
North Carolina Agricultural & Technical State University		6,896,475
Western Carolina University		7,767,064
Appalachian State University		10,905,797
Pembroke State University		2,949,341
Winston-Salem State University		2,955,730
Elizabeth City State University		2,420,096
Fayetteville State University		2,960,136
North Carolina Central University		6,288,599
North Carolina School of the Arts		1,638,785
North Carolina Memorial Hospital		14,382,798
Department of Administration - Reserve for Educational Benefits - Children of Veterans		1,400,000
Department of Cultural Resources		9,855,028
Department of Transportation & Highway Safety		3,505,853
1. State Ports Authority	292,504	
2. Office of Motor Vehicles - Automobile Financial Responsibility Program	1,213,349	
3. Aid to Airports	2,000,000	

Department of Human Resources	259,457,525
1. Administrative Support Services	
a. Administration	481,753
b. Miscellaneous Programs	438,156
c. Employment of the Handicapped	48,145
d. Council on Developmental Disabilities	489,688
2. Division of Health Services	20,571,953
3. Division of Mental Health Services	
a. Office of Mental Health	28,157,288
b. Alcoholic Rehabilitation Center, Black Mountain	1,236,408
c. Alcoholic Rehabilitation Center, Butner	924,777
d. Walter B. Jones Alcoholic Rehabilitation Center, Greenville	951,996
e. Dorothea Dix Hospital	14,051,527
f. Broughton Hospital	11,774,158
g. Western Carolina Center	7,569,672
h. Cherry Hospital	12,625,505
i. O'Berry Center	6,808,760
j. John Umstead Hospital	10,121,420
k. Murdoch Center	9,090,554
l. Caswell Center	9,019,909
m. Wright School	504,708
4. Division of Social Services	86,327,524
5. Division of Services for the Blind	3,641,750
6. Division of Vocational Rehabilitation	6,235,973
7. Division of Facility Services	
a. Administration	4,802,532
b. Student Loan Fund - Medical Education	1,159,743
8. Division of Institutional Services	
a. North Carolina Orthopedic Hospital	1,157,549
b. Lenox D. Baker Cerebral Palsy & Crippled Children's Hospital of North Carolina	637,870
c. North Carolina Specialty Hospitals	
1. General Administration	136,424

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2. McCain Hospital	2,430,546	
3. Western North Carolina Hospital	2,480,698	
4. Eastern North Carolina Hospital	3,206,515	
5. Gravely Hospital	1,319,885	
d. Schools for the Blind & the Deaf		
1. North Carolina School for the Deaf	3,274,420	
2. Eastern North Carolina School for the Deaf	1,933,222	
3. Central North Carolina School for the Deaf	865,646	
4. Governor Morehead School	2,266,307	
e. Confederate Women's Home	110,812	
9. Grants to Non-State Institutions		
a. Child-Caring Institutions	2,041,900	
b. Children's Home Society	50,000	
c. North Carolina Cancer Institute	26,000	
d. Orthopedic Hospital & Rehabilitation Center	485,832	
Department of Natural & Economic Resources		23,651,321
Department of Agriculture		9,426,496
Contingency & Emergency		2,000,000
Salary Increases of State Employees-SPA		25,765,495
Salary Adjustments of State Employees		4,105,000
Reserve for Unemployment Compensation		100,000
Reserve for Postage Increase		600,000
Reserve to Implement Federal Occupational Safety & Health Act Program		2,000,000
Reserve for Increase in Fuel Prices		4,000,000
Reserve for Loss of Federal Funds		2,000,000
Reserve for Longevity, SPA Employees		1,811,115

Reserve for Travel	140,000
TOTAL GENERAL FUND	\$1,690,791,798
<b>HIGHWAY FUND</b>	

**Sec. 3.** Appropriations from the Highway Fund of the State for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of the transportation-related activities, are hereby made for the fiscal year ending June 30, 1975, according to the following schedule:

**TRANSPORTATION**

Department of Transportation & Highway Safety	\$391,056,882
1. Department of Transportation,	
General Administration	\$ 7,523,644
2. Office of Highways	
a. General Administration	599,668
b. Operations Administration	12,980,114
c. State Construction	
1. Primary Construction	47,382,652
2. Secondary Construction	
(a) Statewide Construction	
(b) Safety Improvements	100,000
(c) County Construction	17,834,684
3. Urban Construction	22,025,733
4. Access & Public Service Roads	3,590,639
d. State Funds to Match	
Federal Aid Highway Planning Survey & Highway Planning Research	619,000
e. State Funds to Match	
Federal Aid Construction	40,648,279
f. State Maintenance	
1. Primary	35,734,448
2. Secondary	57,334,951
3. Urban	7,000,000
g. Ferry Operations	3,464,454
h. State Aid to	
Municipalities	27,875,000
3. Highway Safety	25,708,329
4. Revenue Collection & Vehicle Regulation	11,384,863
5. Reserves & Transfers	
a. Merit Salary Increments	4,473,335
b. Reserve for	

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Contingencies	500,000
c. Employer's Contribution, Retirement	10,015,723
d. Employer's Contribution, Social Security	5,758,289
e. Hospital-Medical Benefits	1,911,000
f. Disability Salary Continuation Benefits	441,000
g. Gasoline & Oil Inspection Service, Department of Agricul- ture	796,791
h. Transportation Inspection, Department of Commerce	326,306
i. Driver Training & Safety Education	3,467,262
j. Gasoline Tax Collection Cost, Department of Revenue	587,365
k. Salary Adjustments	2,385,609
l. Salary Increases-SPA	11,259,000
m. Longevity Pay	1,850,000
n. Reserve for Distribution of License Plates	15,000
o. Reserve for Occupational Safety and Health Act	280,000
p. Reserve for Postage & Gasoline	495,000
q. Reserve for Travel	60,000
r. Reserve for Increased Retirement Benefits	213,244
6. Debt Service	24,415,500

Transfers may be made by authorization of the Director of the Budget from Section 3, Title 2.a and b. to Title 2.c(1), c(2)(a), c(2)(b), c(2)(c), c(3), c(4), 2.d., and 2.e. Transfers may be made by authorization of the Director of the Budget from Section 3, Title 2.c(1), c(3), c(4), 2.d. and 2.e. to Title 2.a. and 2.b., provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%), and provided further that transfers to Title 2.a. and 2.b. for the purpose of providing additional positions, shall be approved by the Advisory Budget Commission. Transfers of appropriations within subparagraphs 2.c. (1), c(2), c(3), c(4), d, e, f(1), f(2), f(3), and g, shall be governed by the provisions of G.S. 136-44.2. Allocations may be made from the Reserve for Contingencies by authorization of the Governor and Council of State.

The Controller of the Department of Transportation and Highway Safety is hereby directed to allocate at the beginning of each fiscal year from the various appropriations in Section 3 under Titles 2.c., 2.d., 2.e., 2.f., and 2.g. herein made to the Office of Highways, sufficient funds to eliminate all

overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

In the event the availability of Federal funds or the rate of Federal matching for any program under the Federal Aid Construction program is changed during any part of fiscal year 1974-75, the Director of the Budget may authorize transfers in Section 3 between title 2.c., State Construction, 2.f., State Maintenance, 2.d., State Funds to Match Federal Aid Highway Planning Survey and Highway Planning Research, and 2.e., State Funds to Match Federal Aid Construction, or within the affected Federal Aid programs, of sufficient funds to provide adequate matching for Federal Aid Construction funds; provided that no transfers shall be made from Title 2.c.(2), Secondary Construction, or 2.f.(2), Secondary Maintenance, for this purpose.

During each fiscal year, the Director of the Budget, upon recommendation of the Board of Transportation, may authorize establishment of a reserve for school and industrial access roads and emergencies as provided for by G.S. 136-44.2, and other required reserves.

Notwithstanding any other provisions of this act or any other provision of the law, no transfers shall be made from, nor shall the appropriation made for secondary road county construction be reduced by any amount, except by a pro rata reduction, uniformly applicable to all Highway Fund appropriations made necessary by reduction in receipts, as set forth in Section 26 herein.

**Sec. 4.** There is hereby appropriated out of funds available in the various Special Funds sufficient amounts to carry on required activities included under each fund's operations subject to provisions of the Executive Budget Act, Chapter 143, Article 1, General Statutes of North Carolina.

GENERAL PROVISIONS

**Sec. 5.** All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of such placement shall be paid by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

**Sec. 6.** The Director of the Budget is authorized and empowered to transfer, as between the offices, institutions or agencies under a principal department, any appropriations made herein to any of them, when in his opinion it shall be deemed to be in the best interest of the State.

SPECIAL PROVISIONS

**Sec. 7.** Appropriations in Section 2 for services provided, in accordance with Title XIX of the Social Security Act (Medicaid) are intended for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment rates.

<u>Services</u>	<u>Payment Rate</u>
In-Patient Hospital	Allowable costs
Out-Patient Hospital	Pay 90% of allowable costs
State Mental and Specialty Hospitals and Mental Retardation Centers	Reasonable costs (non-federal share to be funded 100% by the State)
(All Medicaid services including mental, medical, TB, intermediate care and skilled	

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nursing care)	
Nursing Homes	Pay allowable costs up to \$25.00 per day with non-federal share paid 85% by State and 15% by counties and counties to pay all non-federal cost above \$18.50 as may be authorized by the General Assembly
Drugs	Pay \$2.00 service fee per prescription plus actual drug cost
Physicians	Pay 90% of allowable usual and customary charges
Optometrists	Pay 90% of allowable usual and customary charges
Chiropractors	Pay 90% of allowable usual and customary charges
Dental	Pay 90% of allowable usual and customary charges
Home Health	Allowable costs
Optical Services	Pay 90% of allowable usual and customary charges
Medicare Buy-In	Actual cost
Public Health Clinics	Allowable costs
Ambulance Services	Allowable costs
Pre-21 Screening	Allowable costs
Hearing Aids	Allowable costs
Mental Health Clinics	Allowable costs (Federal portion only; non-federal share covered by State/local operating funds)
Intermediate Care Facilities	Allowable co
Family Planning	Allowable costs
Laboratory and X-Ray	
Independent	Pay 90% of usual customary and reasonable charges

It is the intent of the General Assembly that the State will pay eighty-five percent (85%) and the counties will pay fifteen percent (15%) of the non-federal costs of applicable services herein listed except as specified otherwise.

It is the further intent of this General Assembly that, as allowed by federal regulations, recipient co-payments shall be required for services under Medicaid as follows:

<u>Service</u>	<u>Eligibility</u>		<u>Co-Payment for Each Occasion of Service</u>
	<u>Categorically</u> <u>Needy</u>	<u>Medically</u> <u>Needy</u>	
In-Patient Hospital		x	\$ 2.00
Out-Patient Hospital		x	1.00
Physicians		x	1.00
Optometrists		x	1.00
Drugs	x	x	.50
Dental	x	x	2.00
Chiropractors	x	x	1.00
Optical Services	x	x	2.00

**Sec. 8.** Providers of medical services under the various State programs offering medical care to citizens of the State shall be reimbursed at the same rates as those provided under the Medicaid program. This provision relates specifically to the Crippled Children and Maternal and Child Health programs and the Chronic Disease Section of the Division of Health Services, services under Vocational Rehabilitation and Services for the Blind under the Department of Human Resources, and the school health program under the Department of Public Instruction. Income eligibility requirements for services shall be those requirements existing as of January 1, 1974. Any changes must be approved by the Advisory Budget Commission.

**Sec. 9.** Appropriations made herein to the Division of Health Services are intended to provide for the purchase of medical services for a full twelve month period for eligible recipients under certain programs; namely, Cancer, Crippled Children, and Maternal and Child Health. If during the fiscal year, expenditures in these programs indicate that the funds may be insufficient for a full twelve months, the Division shall adjust the eligibility requirements for participation in these programs to the end that the appropriations are sufficient.

**Sec. 10.** Appropriations made herein to the Division of Mental Health Services for Community Mental Health Programs, as authorized by G.S. 122-35.1, are intended to be for both out-patient and in-patient services.

**Sec. 11.** It is the intent of the General Assembly that the funds appropriated herein to replace lost federal receipts be utilized only for existing programs that suffer a loss in federal funding, and that transfers or allocations of funds from this reserve may not be made until approved by the Governor and Advisory Budget Commission.

**Sec. 12.** It is the intention of this act that it shall be the announced policy of the Department of Community Colleges that, as to capital improvement projects, no construction contracts may be let until it has been clearly established that funds are available for the related permanent equipment.

Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, to purchase equipment and library books for the community colleges institutions shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the fiscal year.

**Sec. 13.** Funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for allocation to the institutions comprising the Community College System as operating expenses shall not be used to support general adult education extension courses. The financing of such courses by any institution shall be in accordance with the State Board of Education's Policy #3.0222:

“An institution in the Community College System shall have the authority to sponsor self-supporting programs, seminars, cultural exhibits, and the like, as differentiated from normal organized class instruction, deposit income, if any, to a local account, and pay all expenses from such local account. (6-2-66) However, contact hours produced from such activities shall *not* be counted for inclusion when computing FTE for use in budget-funding formulas at the State level. (2-1-68) Institutions may also offer self-supporting organized class instruction in recreational or avocational areas by making special request to the Department of Community Colleges, showing income to offset expenditures, and

justifying same. Such income will be State funds, and deposited accordingly. Expenditures will be made from an allocation of State funds made to the institution on the basis of the increased receipts shown in the application. (6-2-66).”

**Sec. 14.** Except as specifically authorized in this act, funds appropriated herein to the State Department of Public Education, Department of Community Colleges, for operating costs of the community colleges and technical institutes are intended to support student enrollment at the per student rate provided by the formula adopted by the State Board of Education for 1973-74 for allocation of these operating funds and shall not be used to increase the formula by which the fund allocations will be determined.

**Sec. 15.** Funds appropriated to the State Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations, and unexpended portions of these appropriations shall not revert to the General Fund at the end of the fiscal year.

**Sec. 16.** Funds appropriated herein to the State Department of Education to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars (\$850.00) for each student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Education shall make such rules and regulations as are necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

**Sec. 17.** Funds appropriated herein to the Board of Governors of the University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certification of the respective school of medicine showing the number of North Carolina residents enrolled as first, second, third and fourth year students in the school as of November 1, 1974. To the extent of the appropriation made herein, disbursement shall be made to the school in the amount of five thousand dollars (\$5,000) for each such student, five hundred dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide for tuition remission to financially needy North Carolina students who are enrolled in the school, provided that no individual student shall be awarded assistance from this fund in excess of one thousand five hundred dollars (\$1,500) per year. The Board of Governors shall establish the criteria for determining eligibility for tuition remission for financially needy North Carolina students who are enrolled in the school and shall review the grants or awards to said eligible students. The Board of Governors shall promulgate regulations not inconsistent with the North Carolina General Statutes pertaining to eligibility for in-State tuition at public universities and colleges in determining which students are residents of North Carolina. The Board shall also make such regulations as it may deem desirable to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students toward personal health care in North Carolina giving special emphasis to family and community medicine.

**Sec. 18.** Funds appropriated in this act to the Board of Governors of the University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds are intended to provide up to two hundred dollars (\$200.00) per full-time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1, 1974. These funds shall not be used for the provision of G.S. 116-20 and any funds not required to fulfill the intent of the General Assembly shall revert to the General Fund as of June 30, 1975.

**Sec. 19.** All appropriations for grants-in-aid to private nonprofit organizations in the areas of history, art and culture shall be placed in the State fund entitled Historical-Educational Grants-in-Aid. This fund is assigned to the Department of Cultural Resources for allocation of the appropriations as directed by the Director of the Budget.

It is the intent of the General Assembly that the Department of Cultural Resources make regular and timely reviews, studies and recommendations relating the actual operations of the recipients of grants-in-aid to their needs for and use of State funds. The Department of Cultural Resources may request operating statements, audit reports and other information they deem appropriate from the grantees. Appropriation requests for all non-State organizations in the areas of history, art and culture shall be transmitted through the Department of Cultural Resources to the Governor and the Advisory Budget Commission with the recommendations of the Department.

Funds appropriated in Section 2 of this act herein to the Division of Archives and History of the Department of Cultural Resources, for grants-in-aid to assist in the restoration of significant historic sites owned by private nonprofit organizations shall be expended only in accordance with Sections 121-11, 121-12 and 143-31.2 of the General Statutes. All expenditures of State appropriated funds for these purposes are contingent upon matching dollar-for-dollar by non-State funds raised by the designated recipient organizations for the same purposes on or after July 1, 1974.

The sites, amounts of State appropriations, and organizations are:

<u>Site</u>	<u>Appropriation</u>	<u>Organization</u>
Thalian Hall	\$25,000	Thalian Hall Commission, Inc.
Harmony Hall House	25,000	Lenoir County Historical Association, Inc.
Stonewall	25,000	Nash County Historical Association, Inc.

**Sec. 20.** It is the intent of this act that expenditures of funds appropriated herein as reserves shall not be scheduled in amounts or in such manner as to create an increased annual obligation in the succeeding year, except as provided by statute.

**Sec. 21.** Subject to a recommendation of the Director of the Budget, funds not to exceed one hundred fifty thousand dollars (\$150,000) for the fiscal year 1974-75 may be allotted out of the Contingency and Emergency Appropriation for use by the State Department of Agriculture, or North Carolina Agricultural Experiment Station, and/or the U.S. Department of

Agriculture, for a witch weed control program and/or for payment of hog cholera indemnities.

**Sec. 22.** Appropriations are provided in Section 2 of this act for required employer contributions to the Teachers' and State Employees' Retirement Fund, the Law Enforcement Officers' Benefit and Retirement Fund, the Judicial Department Retirement Fund, and the Social Security Agency, for employees whose salaries are paid from the General Fund; in Section 3 of this act, for required employer contributions for employees whose salaries are paid from the Highway Fund; and in Section 4 of this act, for required employer contributions for employees whose salaries are paid from Special Funds. For employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), the employer requirement shall be paid from the same source as the source of the employee's salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), required employer contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of employees of Hospital-Medical Insurance, Disability Salary Continuation Benefits, Longevity, and Unemployment Insurance, except that where the employee's salary is paid in whole or in part from gifts, including foundations, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Notwithstanding the restrictions in this section, the Director of the Budget is authorized and empowered to promulgate special rules and regulations to apply to employer requirements with respect to employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations shall not be materially reduced as a result of payment of the employer's requirement.

Any questions as to the applicability of the provisions of this section shall be resolved by the Director of the Budget and the Advisory Budget Commission.

**Sec. 23.** Funds appropriated in Section 2 of this act to the Judicial Department for salary increases and employer's retirement and social security contributions thereon for permanent employees whose salaries are not established under Section 33 of this act or not otherwise provided for under provisions of Chapter 7A of the General Statutes are intended to provide salary increases commencing July 1, 1974, by the same percentage as that authorized for State employees subject to the Personnel Act by Section 31 of this act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department, and for salary increases commencing July 1, 1974, of an additional average of five percent (5%), rounded to conform to the steps in the salary ranges adopted by the Judicial Department, for those employees whose salaries as of June 30, 1973, were two dollars and sixty-three cents (\$2.63) or less per hour.

**Sec. 24.** Subject to the rules and regulations promulgated by the Department of Administration and approved by the Director of the Budget, any State department, institution, or agency of the State is hereby authorized to

expend, from appropriations made in this act, funds to pay reasonable expenses for transporting the household goods of an employee and members of his household when the transfer of the employee is considered by the Director of the Budget to be in the best interests of the State.

**Sec. 25.** The Director of the Budget with the approval of the Council of State is authorized to make transfers from the Contingency and Emergency Fund for any purpose authorized by law for which no specific appropriation has been made, or when, inadvertently, an insufficient appropriation has been made.

**Sec. 26.** The Director of the Budget with the advice and consent of the Advisory Budget Commission may reduce Highway Fund appropriations in the event that revenues are not sufficient to prevent an overdraft or deficit in the Highway Fund during the 1974-75 fiscal period.

**Sec. 27.** The Director of the Budget, with the approval of the Advisory Budget Commission, is authorized and empowered to transfer to State departments appropriations made in Section 2 of this act as a reserve to implement the provisions of Public Law 91-596, the Occupational Safety and Health Act of 1970.

**Sec. 28.** The Director of the Budget, with the approval of the Advisory Budget Commission and upon the request of the Governor's Aviation Committee, is authorized and empowered to allocate grants from the appropriations for airport improvements made in Section 2 of this act.

**Sec. 29.** Within the limits of the appropriations made in Section 2 to the Board of Governors of the University of North Carolina, community hospitals are to be awarded grants in the amount of fifteen thousand dollars (\$15,000) per year for each certified residency that is established and filled and that represents an increase over the number of certified residencies at those hospitals as of June 30, 1974, in the fields of family practice, internal medicine, pediatrics and obstetrics/gynecology.

None of the money appropriated to the Board of Governors of the University of North Carolina that is allocated as grants to area Health Education Centers shall be used to construct housing for residents or interns other than on-call quarters necessary while such residents or interns are on duty.

**Sec. 30.** Funds appropriated in Section 2 to the State Department of Public Education for instructional personnel in the areas of psychological and guidance counselling, health and social services, reading, mathematics and cultural arts shall be allocated to local administrative units on the basis of average daily membership. The State Board of Education shall require local administrative units to provide evidence that the expenditure of local funds for the payment of such instructional personnel is no less than the amount expended per pupil in average daily membership for such purposes during the prior year. At the discretion of the State Board of Education, funds appropriated under this act may be withheld to ensure that supplanting of local funds does not occur. The State Board of Education is empowered to waive this requirement upon a showing of fact by the local administrative unit that compliance would result in inefficient use of funds and that the overall per pupil expenditure from local funds for instructional purposes is no less than the overall per pupil expenditure from local funds for instructional purposes in the preceding fiscal year.

#### SALARIES AND WAGES

**Sec. 31.** The Director of the Budget is authorized and empowered to transfer from the appropriations in Section 2 of this act for Salary Increases of

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State Employees, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1974, for all permanent employees subject to the Personnel Act whose salaries are paid from the General Fund, and from the appropriations in Section 3 of this act for Salary Increases of State Employees, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1974, for all permanent employees subject to the Personnel Act whose salaries are paid from the Highway Fund, by an average of seven and one-half percent (7 1/2%) commencing July 1, 1974, rounded to conform to the steps in such salary ranges as may be adopted by the State Personnel Board. For an employee whose salary in effect on June 30, 1974, is not equal to a specific pay rate within the present salary schedule, the annual increase will be the amount applicable to the next lower pay rate.

It is the intent of this section that State Department Secretaries, Deputy Secretaries or Chief Assistants, whose salaries are required to be set by the General Assembly, be granted seven and one-half percent (7 1/2%) salary increases commencing July 1, 1974.

The Director of the Budget is further authorized to transfer any unexpended balances which may remain, after the provisions of this section have been fully met, from the appropriations for Salary Increases of State Employees to the appropriations for Salary Adjustments of State Employees.

The Director of the Budget is authorized and empowered to allocate, out of special operating funds under which personnel are employed or from sources other than tax revenues, sufficient funds to conform with the provisions of this section, provided necessary funds are available or made available by sponsoring agents. The Director of the Budget is further authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from inter-agency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations shall not be materially reduced as a result of these salary increases. Any question as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget and the Advisory Budget Commission.

Salaries for positions which are paid partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The salary increases shall not affect the status of eligibility for automatic and/or merit salary increments for which the employee may be eligible for the fiscal year 1974-75 notwithstanding the granting of the legislative salary increase.

The salary ranges for all employees under the Personnel Act shall be increased, so far as the maximums are concerned, by amounts corresponding to those of this legislative salary increase to the end that, after the salary increases provided for in this act are made, every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the salary increases provided by this act had not been made.

The salary increases provided in this act to be effective July 1, 1974, shall not apply to persons separated from the State service due to resignation,

dismissal, reduction in force, death or retirement, whose last work day is prior to July 1, 1974.

**Sec. 32.** The Director of the Budget is authorized and empowered to transfer to General Fund budget codes from the General Fund Salary Adjustment appropriation, and to Highway Fund budget codes from the Highway Fund Salary Adjustment appropriation, such amounts as may be required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State Government. These funds are intended to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

**Sec. 33.** The salary per annum of each of the following shall be:

Chief Justice, Supreme Court	\$39,000
Associate Justice, Supreme Court	38,000
Chief Judge, Court of Appeals	36,500
Judge, Court of Appeals	35,500
Judge, Superior Court	30,500
Chief Judge, District Court	24,500
Judge, District Court	23,500
Solicitor or District Attorney	27,000
Assistant Solicitor or	
Assistant District Attorney an average of	17,500
Administrative Officer of the Courts	32,500
Assistant Administrative Officer of the Courts	24,000
Public Defender	27,000
Assistant Public Defender an average of	17,500
Clerk, Court of Appeals	21,052
Clerk, Supreme Court	22,108
Marshall-Librarian, Supreme Court	21,160

The beginning salary of any Assistant Solicitor or Assistant District Attorney and Assistant Public Defender shall be twelve thousand dollars (\$12,000) per annum; provided, that on recommendation of the District Attorney or the Public Defender with the approval of the Administrative Officer of the General Court of Justice, the salaries of Assistant District Attorneys and Assistant Public Defenders may be adjusted so long as the average salaries of Assistant District Attorneys and Assistant Public Defenders in a judicial district do not exceed seventeen thousand five hundred dollars (\$17,500).

**Sec. 34.** Funds provided in this act for salary increases to academic personnel in higher educational institutions are to be allocated to individuals according to rules and regulations established by the Board of Governors of the University of North Carolina.

**Sec. 35.** Salary increase funds provided in this act for community college personnel are for two purposes:

(1) to provide an average increase of seven and one-half percent (7 1/2%) for all community college institutional personnel to be allocated to individuals according to the rules and regulations established by the State Board of Education; and

(2) to provide an additional average increase of two and one-half percent (2 1/2%) for instructional curriculum personnel to be distributed according to rules and regulations established by the State Board of Education.

**Sec. 36.** It is the intent of the General Assembly that farms currently operated by the Department of Human Resources and the Department of Social Rehabilitation and Control not being used to execute the statutory duties of these departments continue to be operated as farms until the General Assembly can ascertain their best use.

With the approval of the Council of State, the land included in such farms may be transferred to the Department of Agriculture. Equipment, machinery and funding associated with these farming operations may also be transferred to the Department of Agriculture with the approval of the Advisory Budget Commission. The lands so transferred shall be managed and operated as farm lands or leased for use as farm lands. The Department of Agriculture shall farm these lands to provide food needed by the Departments of Human Resources and Social Rehabilitation and Control.

The Department of Administration shall consider the long-range needs of the State and shall submit recommendations to the 1977 Session of the General Assembly to establish whether the State's interest is best served by continued farming of these lands, by their use for other purposes, or by disposal of these properties.

**Sec. 37.** Funds appropriated to the State Board of Education in Section 2 of this act for occupational education which represent an increase over appropriations for that purpose in fiscal year 1973-74 shall be allocated by the State Board of Education solely on the basis of average daily membership. The allocation formula shall not include any requirement for matching funds on the part of the recipient units. The State Board of Education shall require local administrative units to provide evidence that the expenditure of local funds for occupational education programs is no less than the amount expended per pupil in average daily membership for those programs during the prior year and may, at the discretion of the State Board, withhold funds appropriated under this act to ensure that supplanting of local funds does not occur.

**Sec. 38.** Funds appropriated in Section 2 to the State Department of Public Education for clerical assistance in the public schools shall be allocated in the following manner:

Three thousand seven hundred dollars (\$3,700) to each school with 10 or fewer State allocated teaching positions; two thousand five hundred dollars (\$2,500) to each school with 11 to 20 State allocated teaching positions; one thousand five hundred dollars (\$1,500) to each school with 21 to 40 State allocated teaching positions; eight hundred dollars (\$800.00) to each school with more than 40 State allocated teaching positions.

These formula allocations are to be used as base grants and made prior to the allocation of funds for clerical assistance on the basis of average daily membership. The Department is responsible for ensuring the funds allocated to local administrative units for clerical assistance are distributed to schools within those units in amounts consistent with the above formula. Further, the State Board of Education shall require local administrative units to provide evidence that the expenditure of local funds for the payment of educational secretaries and clerical personnel is no less than the amount expended per pupil in average daily membership for such personnel during the prior year. At the discretion of the State Board of Education, funds appropriated under this act may be withheld to ensure that supplanting of local funds does not occur. The State Board of Education is empowered to waive this requirement upon a

showing of fact by the local administrative unit that compliance would result in inefficient use of funds and that the overall per pupil expenditure from local funds for school purposes is no less than the overall per pupil expenditure from local funds for school purposes in the preceding fiscal year.

**Sec. 39.** It is the intent of the General Assembly that the amount of seven hundred fifty thousand dollars (\$750,000) appropriated in Section 2 to the State Department of Public Education specifically to improve instructional practices in the public schools be a permanent appropriation. Unexpended portions of this appropriation shall not revert to the General Fund at the end of the 1974-75 fiscal year.

**Sec. 40.** Funds appropriated in Section 2 of this act to the State Board of Education for development of health, physical education and athletic activities shall be allocated by the Board to local administrative units on the basis of average daily membership in kindergarten through grade six in the 1973-74 school year. These funds shall be used to provide instruction, supplies or equipment in the improvement of physical education programs.

Eighty-eight thousand five hundred dollars (\$88,500) of these funds is to be used by the State Board of Education in the summer of 1974 to conduct regional workshops to prepare trainees for the physical education leadership positions in kindergarten through grade six in local administrative units.

**Sec. 41.** It is the intent of this General Assembly that non-State health and welfare agencies submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for his recommendations to the Governor and the Advisory Budget Commission.

**Sec. 42.** It is the intent and purpose of this act to establish a more adequate level of direct patient care in each of the mental health institutions. Positions recommended for direct patient care in the budget shall not be reclassified or funds reallocated to non-direct patient-care activities.

**Sec. 43.** The funds appropriated in Section 2 for Health Aid to Counties include two million dollars (\$2,000,000) for counties that choose to consolidate local health departments, upgrade salaries of local health personnel, or contract with the state for the provision of public health services. It is the intent of this General Assembly that any portion of these funds not required for these specific purposes be included in the general distribution of funds to local health departments based on a formula adopted by the Department of Human Resources.

**Sec. 44.** Funds appropriated herein to the Department of Administration as a Reserve for Fuel Price Increases shall be distributed to Departments according to actual need and up to four hundred thousand dollars (\$400,000) is authorized for use as a revolving fund to establish an emergency fuel storage program.

**Sec. 45.** Capital projects for 1973-74 authorized from the Highway Fund by the General Assembly are cancelled upon ratification of this act as follows:

Department of Transportation:	
Division of Highways	\$4,060,849
Division of Motor Vehicles	<u>446,000</u>
Total	\$4,506,849

These funds are hereby reappropriated to support the construction of primary roads in 1974-75. In addition the sum of four hundred thirty thousand eight hundred seventy-one dollars (\$430,871) in the Highway Fund Credit balance

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for the fiscal year ending June 30, 1974, is hereby reserved to support the construction of primary roads in 1974-75. These two sums shall be added to all other funds appropriated for the construction of primary roads in this act.

**Sec. 46.** The Board of Governors of the University of North Carolina is hereby directed to submit to the General Assembly in its operating budget for the 1975-76 fiscal year comprehensive plans (1) to expand as soon as practicable the program of first-year medical education at the East Carolina University School of Medicine, and (2) to add a second year program of medical education at the East Carolina University School of Medicine, and (3) that concentration be placed upon the training of family care physicians, and (4) that special efforts be taken to encourage the recruitment and medical education of racial minorities.

In carrying out the purpose of this act, the University of North Carolina School of Medicine at Chapel Hill and the East Carolina University School of Medicine shall work cooperatively toward full accreditation of the expanded medical education program at East Carolina University to the end that its graduates may transfer freely to other units of the University of North Carolina School of Medicine.

The sum of seven million five hundred thousand dollars (\$7,500,000) in Section 2 of this act is appropriated to the Board of Governors of the University of North Carolina to be expended for the erection of a basic medical science building at East Carolina University and for the purposes outlined in this section.

Funds appropriated in 1973-74 to the Board of Governors of the University of North Carolina as a reserve for an additional degree-granting school of medicine and carried forward to fiscal year 1974-75 shall be available for the purposes outlined in this section.

**Sec. 47.** Except as exempted by statute and as provided by Section 46 of this act, it is the intent of the General Assembly that all unencumbered balances of maintenance appropriations for 1973-74 shall revert to the State treasury to the credit of the General Fund or special funds from which the appropriations were made or expended, at the end of the 1973-74 fiscal year. Encumbered balances and unliquidated obligations will be handled in accordance with existing state budget policy.

**Sec. 48.** The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are re-enacted and shall remain in full force and effect, and are incorporated in this act by reference.

**Sec. 49.** If any section or provision of this act be declared unconstitutional or invalid by the courts, the same shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**Sec. 50.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 51.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

S. B. 1125

CHAPTER 1191

AN ACT TO AMEND G.S. 20-158 TO PERMIT RIGHT TURNS ON RED TRAFFIC SIGNALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-158(c) is hereby amended and rewritten to read as follows:

“(c) Except as hereinafter provided, no operator of a vehicle approaching an intersection, crosswalk, or other designated crossing at which a traffic light has been erected or installed on any highway or street on the State Highway System or on the municipal street system, shall enter the said intersection or crossing with the said vehicle while the traffic light is emitting a red light for the traffic moving on the street or highway in the direction that the said approaching vehicle is traveling. Any vehicle, after coming to a complete stop for a red light facing the vehicle, may make a right turn after yielding to pedestrians and other vehicles. The making of right turns on traffic signals emitting a red light may be prohibited by ordinance of the appropriate road governing body having jurisdiction over the street or highway, which ordinance shall be effective after the posting of a sign giving notice thereof. All such traffic lights emitting alternate red and green lights shall be so arranged and placed so that the red light shall appear on the top of the signaling unit and the green light shall appear at the bottom of the signaling unit.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

S. B. 1345

CHAPTER 1192

AN ACT TO AMEND CHAPTERS 686 AND 721, 1971 SESSION LAWS, RELATING TO THE CIVIL SERVICE ACT OF THE CITY OF HIGH POINT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 5 of Chapters 686 and 721 of the 1971 Session Laws is hereby amended by adding the following new paragraph (8):

“(8) For a service rating system that fairly evaluates an employee’s past performance and provides for the establishment of disciplinary measures, which may include the use of merits and demerits, and provides for procedures for employee appeals.”

**Sec. 2.** Section 6 of Chapters 686 and 721 of the 1971 Session Laws is hereby amended by adding after the word “Personnel Director” the words “Assistant Personnel Director”.

**Sec. 3.** Section 7 of Chapters 686 and 721 of the 1971 Session Laws is hereby amended by adding after the word “temporary” on line one the words “or part-time”.

**Sec. 4.** Section 15 of Chapters 686 and 721 of the 1971 Session Laws is hereby amended by adding the terms “reduced in grade” or “reduction in grade”, as appropriate, just before the words “laid-off” or “lay-off” as they appear in lines one, three, four, nine, 21, 34, 35 and 38 of this section.

**Sec. 5.** Section 17 of Chapters 686 and 721 of the 1971 Session Laws is hereby rewritten to read as follows:

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“Sec. 17. The promotion of any city employee of the City of High Point in either his or her present department, or to any other department of the municipal government shall, except as otherwise provided for in this act, be on a competitive basis. Such promotion shall be made only upon written recommendation to the City Manager by the department head in the department in which the person is at the time employed, and such promotion shall then be made only with the approval of the City Manager.”

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

### S. B. 1365 CHAPTER 1193

AN ACT TO AMEND ARTICLE 1 OF CHAPTER 74 OF THE GENERAL STATUTES RELATING TO MINERAL COMMODITY REPORTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 74-12 is hereby repealed.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

### H. B. 904 CHAPTER 1194

AN ACT TO AMEND CHAPTER 44A OF THE GENERAL STATUTES RELATING TO A MODEL PAYMENT AND PERFORMANCE BOND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 44A of the General Statutes is hereby amended by inserting immediately after Article 2, Part 3, and G.S. 44A-24 a new Article to read as follows:

“Article 3.

“Model Payment and Performance Bond.

“§ 44A-25. *Definitions.*—Unless the context otherwise requires in this Article:

(1) ‘Claimant’ includes any individual, firm, partnership, association or corporation entitled to maintain an action on a bond described in this Article and shall include the ‘contracting body’ in a suit to enforce the performance bond.

(2) ‘Construction contract’ means any contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highways.

(3) ‘Contracting body’ means any department, agency, or political subdivision of the State of North Carolina which has authority to enter into construction contracts.

(4) ‘Contractor’ means any person who has entered into a construction contract with a contracting body.

(5) ‘Labor or materials’ shall include all materials furnished or labor performed in the prosecution of the work called for by the construction contract regardless of whether or not the labor or materials enter into or become a component part of the public improvement, and further shall include gas, power, light, heat, oil, gasoline, telephone services and rental of equipment or the

reasonable value of the use of equipment directly utilized in the performance of the work called for in the construction contract.

(6) 'Subcontractor' means any person who has contracted to furnish labor or materials to, or who has performed labor for, a contractor or another subcontractor in connection with a construction contract.

"§ 44A-26. *Bonds required.*—(a) A contracting body shall require of any contractor who is awarded a construction contract which exceeds the amount of ten thousand dollars (\$10,000) the following bonds:

- (1) A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of the contracting body which awarded the contract.
- (2) A payment bond in the amount of one hundred percent(100%) of the Construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor or subcontractor is liable.

(b) The performance bond and the payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the construction contract.

"§ 44A-27. *Actions on payment bonds; service of notice.*—(a) Subject to the provision of subsection (b) hereof, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this act, and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last such labor or furnished the last such materials for which he claims payment, may bring an action on such payment bond in his own name, to recover any amount due him for such labor or materials and may prosecute such action to final judgment and have execution on the judgment.

(b) Any claimant who has a direct contractual relationship with any subcontractor but has no contractual relationship, express or implied, with the contractor may bring an action on the payment bond only if he has given written notice to the contractor within 90 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished.

(c) The notice required by subsection (b), above, shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business or served in any manner provided by law for the service of summons.

"§ 44A-28. *Actions on payment bonds; venue and limitations.*—(a) Every action on a payment bond as provided in G.S. 44A-27 shall be brought in a court of appropriate jurisdiction in a county where the construction contract or any part thereof is to be or has been performed.

(b) No action on a payment bond shall be commenced after the expiration of the longer period of one year from the day on which the last of the labor was performed or material was furnished by the claimant, or one year from the day on which final settlement was made with the contractor.

“§ 44A-29. *Limitation of liability of a surety.*—No surety shall be liable under a payment bond for a total amount greater than the face amount of the payment bond. A judgment against any surety may be reduced or set aside upon motion by the surety and a showing that the total amount of claims paid and judgments previously rendered under such payment bond, together with the amount of the judgment to be reduced or set aside, exceeds the face amount of the bond.

“§ 44A-30. *Variance of liability; contents of bond.*—(a) No act or agreement between a contracting body, a contractor or a surety shall reduce the period of time for giving notice under G.S. 44A-27(b) or commencing action under G.S. 44A-28(b) or otherwise reduce or limit the liability of the contractor or surety as prescribed in this Article.

(b) Every bond given by a contractor to a contracting body pursuant to this Article shall be conclusively presumed to have been given in accordance herewith, whether or not such bond be so drawn as to conform to this Article. This Article shall be conclusively presumed to have been written into every bond given pursuant thereto.

“§ 44A-31. *Certified copy of bond and contract.*—(a) Any person entitled to bring an action or any defendant in an action on a payment bond shall have a right to require the contracting body to certify and furnish a copy of the payment bond and of the construction contract covered by the bond. It shall be the duty of such contracting body to give any such person a certified copy of the payment bond and construction contract upon not less than 10 days notice and request. The contracting body may require a reasonable payment for the actual cost of furnishing the certified copy.

(b) A copy of any payment bond and of the construction contract covered by the bond certified by the contracting body shall constitute prima facie evidence of the contents, execution and delivery of such bond and construction contract.

“§ 44A-32. *Designation of official; violation a misdemeanor.*—Each contracting body shall designate an official thereof to require the bonds described by this Article. If the official so designated shall fail to require said bond, he shall be guilty of a misdemeanor.”

“§ 44A-33. *Form.*—(a) A performance bond form containing the following provisions shall comply with this act: the date the bond is executed; the name of the principal; the name of the surety; the name of the contracting body; the amount of the bond; the contract number; and the following conditions:

‘KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the principal shall well and truly perform and fulfill

all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.'

Appropriate places for execution by the Surety and Principal shall be provided.

(b) A payment bond form containing the following provisions shall comply with this act: the date the bond is executed; the name of the Principal; the name of the Surety; the name of the Contracting Body; the contract number; and the following conditions:

'KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named contracting body, hereinafter called the Contracting Body, in the penal sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the Contracting Body, numbered as shown above and hereto attached;

NOW THEREFORE, if the principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.'

Appropriate places for execution by the Surety and Principal shall be provided."

**Sec. 2.** G.S. 143-129 is hereby amended by rewriting the tenth paragraph, which begins with the clause "all contracts to which this section applies...", to read as follows:

"All contracts to which this section applies shall be executed in writing, and the board or governing body shall require the person to whom the award of contract is made to furnish bond as required by Article 3 of Chapter 44A; or require a deposit of money, certified check or government securities for the full amount of said contract to secure the faithful performance of the terms of said contract and the payment of all sums due for labor and materials in a manner consistent with Article 3 of Chapter 44A; and no such contract shall be altered

except by written agreement of the contractor, the sureties on his bond, and the board or governing body. Such surety bond or deposit required herein shall be deposited with the board or governing body for which the work is to be performed. When a deposit, other than a surety bond, is made with the board or governing body, said board or governing body assumes all the liabilities, obligations and duties of a surety as provided in Article 3 of Chapter 44A to the extent of said deposit. In the case of contracts for the purchase of apparatus, supplies, materials, or equipment, the board or governing body may waive the requirement for a surety bond or other deposit.”

**Sec. 3.** The addition of this Article shall not be construed as making the provisions of Articles 1 and 2 of Chapter 44A of the General Statutes apply to public bodies or public buildings.

**Sec. 4.** The first sentence of subsection (c) of G.S. 136-28.1 is amended by striking “G.S. 136-28.3” and inserting in lieu thereof “Chapter 44A”.

**Sec. 5.** Subsection (c) of G.S. 136-28.1 is hereby amended by striking the last sentence thereof.

**Sec. 6.** G.S. 44-14, G.S. 136-28.3 and all other laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 7.** This act shall become effective on and after September 1, 1974, and shall apply to all construction and repair contracts awarded on or after that date, but this act shall not apply to any contract awarded prior to the effective date nor any contract bond securing its performance or the payment of labor and material thereof.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

## H. B. 1613

## CHAPTER 1195

### AN ACT TO CLARIFY AND EXPAND THE PROVISIONS OF CHAPTER 85B CONCERNING THE LICENSING AND REGULATION OF AUCTIONEERS AND APPRENTICE AUCTIONEERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 85B-4 is amended by deleting the last three sentences of the first paragraph of subsection (c) and by rewriting subsection (d) to read as follows:

“(d) No person shall be licensed as an auctioneer unless he has held an apprentice auctioneer license and served as an apprentice auctioneer for the two preceding years, and has taken an examination approved by the Commission and performed on it to the satisfaction of the Commission. The examination shall test the applicant’s understanding of the law relating to auctioneers and auctions, ethical practices for auctioneers, the mathematics applicable to the auctioneer business, and such other matters relating to auctions as the Commission considers appropriate. The examination shall be given at least twice each year in Raleigh, and at such other times and places as the Commission designates, but no person shall be allowed to take the examination within six months after having failed it a second time.

Any person who has been in the auctioneer business in this State for at least two years prior to the effective date of this act, and who makes proper application to the Commission within one year after July 1, 1973, may be licensed as an auctioneer without holding an apprentice license and serving as an

apprentice for two years, and without taking the examination required by this subsection. Any person who has successfully completed the equivalent of at least 80 hours of classroom instruction in a course in auctioneering at an institution approved by the Commission may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice for two years, but must take the examination required by this subsection and perform on it to the satisfaction of the Committee.

Each applicant for an auctioneer license shall submit a written application in a form approved by the Commission. If the applicant has been previously licensed as an apprentice auctioneer, the application shall contain an evaluation by the applicant's supervisor of his performance as an apprentice auctioneer. If the applicant is exempted from apprenticeship because he has completed the equivalent of at least 80 hours of classroom instruction in auctioneering, the application shall contain a transcript of his course work in auctioneering. Each application shall be accompanied by statements of at least two residents of North Carolina attesting to the applicant's good moral character. The Commission may require verification of any information included in an application for an auctioneer license."

**Sec. 2.** G.S. 85B-4(e) is amended by deleting the word "apprentice" from the second sentence.

**Sec. 3.** G.S. 85B-6 is amended by deleting the words "and for examination" from the third line and by adding in the fourth line, after the word "license" and before the semicolon, the following words: "and for examination".

**Sec. 4.** Subdivision (1) of G.S. 85B-8(a) is amended by deleting the semicolon following the word "Chapter" and adding the following words: "or any violation of a rule or regulation duly adopted by the Commission;".

**Sec. 5.** G.S. 85B-8 is amended by deleting subsections (b), (c) and (d) and placing in lieu thereof the following new subsection (c):

"(c) The Commission may upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer or apprentice auctioneer or any person who holds himself out as an auctioneer or apprentice auctioneer, and shall have the power to suspend or revoke any license issued under the provisions of this Chapter. In all proceedings for the suspension or revocation of licenses, the provisions of Chapter 150 of the General Statutes shall be applicable."

**Sec. 6.** Chapter 85B is further amended by adding the following new Section 85B-9:

"§ 85B-9. *Penalties and enforcement.*—(a) Any person, corporation or association or persons violating the provisions of G.S. 85B-4(a) shall be guilty of a misdemeanor and shall be punished by fine, or imprisonment, or both, in the discretion of the court.

(b) The Commission may in its own name seek injunctive relief in the General Court of Justice to restrain any violation or anticipated violation of the provisions of G.S. 85B-4(a).

(c) The Commission shall be entitled to the services of the Attorney General of North Carolina in enforcing the provisions of this Chapter or may employ an attorney to assist and represent it in enforcement of specific matters."

**Sec. 8.** G.S. 105-43 and subsection (b) of G.S. 105-47 are repealed.

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**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1757                      **CHAPTER 1196**

AN ACT TO PROHIBIT POSSESSION OF ADDITIONAL FIREARMS BY FELONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-415.1(a), as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended by striking out of the fifth and sixth lines thereof the words "or pistol" and inserting in lieu thereof the words "or other firearms with a barrel length of less than 18 inches or an overall length of less than 26 inches".

**Sec. 2.** This act shall become effective October 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1822                      **CHAPTER 1197**

AN ACT TO PROVIDE FOR THE SALE OF COMMERCIAL FISHING LICENSES IN ALL COUNTIES CONTAINING COASTAL FISHING WATERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-151 is hereby rewritten to read as follows:

"§ 113-151. *License agents.*—The Commissioner shall commission such persons as in his discretion he deems necessary to be license agents for the Division of Commercial and Sports Fisheries; provided, that at least one such license agent shall be appointed in each county which contains or borders on coastal fishing waters. Such agents together with the Division of Commercial and Sports Fisheries shall have the authority and duty to sell all licenses provided for by this Article. Agents shall be compensated not in excess of five percent (5%) of the license fees collected by them."

**Sec. 2.** Article 14 of Chapter 113 of the General Statutes of North Carolina is hereby amended by adding thereto a new Section 151.1 to read as follows:

"§ 113-151.1. *Regulations of Board.*—The Board is authorized to make reasonable rules and regulations governing the administration and enforcement of all license requirements and taxes prescribed in this Article.

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1946

## CHAPTER 1198

## AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO CONTROL AND ERADICATE THE ANIMAL DISEASE KNOWN AS EQUINE INFECTIOUS ANEMIA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Equine Infectious Anemia defined. Equine Infectious Anemia shall mean the disease wherein an animal is infected with the virus of Equine Infectious Anemia, irrespective of the occurrence or absence of clinical signs of the disease. An animal shall be declared infected with Equine Infectious Anemia if it is classified as a reactor to a serological test or other test approved by the State Veterinarian.

**Sec. 2.** Animals infected with or exposed to Equine Infectious Anemia declared subject to quarantine. It is hereby declared that the disease of horses, ponies, mules and asses (and other equine animals) known as Equine Infectious Anemia is of an infectious and contagious nature and that animals infected with, exposed to, or suspected of being carriers of the disease shall be subject to quarantine and identification as required by the rules and regulations of the North Carolina Department of Agriculture.

**Sec. 3.** Authority to promulgate and enforce rules and regulations. The State Board of Agriculture shall have full power to promulgate and enforce such rules and regulations as it deems necessary for the control and eradication of Equine Infectious Anemia. This authority shall include, but not be limited to, the power to make regulations requiring the testing of horses, ponies, mules and asses for Equine Infectious Anemia prior to sale, exhibition or assembly at public stables or other public places, and authority to require the owner, operator or person in charge of shows, sales, public stables and other public places to require proof of freedom from Equine Infectious Anemia before any animal is permitted to remain on the premises.

**Sec. 4.** Implementation of control and eradication program. The control and eradication of Equine Infectious Anemia in North Carolina shall be conducted as far as available funds will permit, and in accordance with the rules and regulations made by the Board of Agriculture. The Board of Agriculture is hereby authorized to cooperate with the U. S. Department of Agriculture in the control and eradication of Equine Infectious Anemia.

**Sec. 5.** Violation made misdemeanor. Any person who shall willfully move, direct the movement, or allow to be moved, from the premises where quartered any animal or animals known to be infected with Equine Infectious Anemia, or under quarantine because of suspected exposure to Equine Infectious Anemia, or who shall violate any provision of this act or any rule or regulation promulgated by the Board of Agriculture under this act shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or imprisoned, or both, in the discretion of the court.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1974

**CHAPTER 1199**

**AN ACT TO VALIDATE CERTAIN CIVIL PROCEEDINGS INVOLVING GUARDIANS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1A-1, Rule 17(b)(2), is hereby amended by adding the following paragraph at the end thereof:

“All orders or final judgments duly entered in any action or special proceeding prior to the effective date of this paragraph, when any of the defendants were infants or incompetent persons, whether residents or nonresidents of this State, and were defended therein by a general or testamentary guardian or guardian ad litem, and summons and complaint or petition in said action or special proceeding were duly served upon the guardian or guardian ad litem and answer duly filed by said guardian or guardian ad litem, shall be good and valid notwithstanding that said order or final judgment was entered less than 20 days after notice of the summons and complaint were served upon said guardian or guardian ad litem.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 2007

**CHAPTER 1200**

**AN ACT TO REPEAL THE PRIVILEGE TAX ON MANUFACTURERS, PRODUCERS, BOTTLERS AND DISTRIBUTORS OF SOFT DRINKS, AND TO REDUCE THE PRIVILEGE TAX ON CERTAIN SOFT DRINK DISPENSERS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-69 is repealed in its entirety.

**Sec. 2.** G.S. 105-65.1, as the same appears in the 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting lines 8, 9, 10, 11, 12, 13 and 14 of subsection (b) (1) thereof, to read as follows:

“For more than five and not over 50 soft drink dispensers,  
seven dollars (\$7.00) per machine.

For 51 and not over 100 soft drink dispensers	\$ 535.00
For 101 and not over 150 soft drink dispensers	892.50
For 151 and not over 200 soft drink dispensers	1,250.00
For each 50 or fraction thereof additional soft drink dispensers over 200	357.50”

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

S. B. 157

CHAPTER 1201

AN ACT TO AMEND G.S. 14-17 MURDER DEFINED AND PUNISHMENT PROVIDED FOR MURDER, RAPE, BURGLARY AND ARSON.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-17 is hereby rewritten to read as follows:

“§ 14-17. *Murder in the first and second degree defined; punishment.*—A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, kidnapping, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death. All other kinds of murder shall be deemed murder in the second degree, and shall be punished by imprisonment for a term of not less than two years nor more than life imprisonment in the State’s prison.”

**Sec. 2.** G.S. 14-21 is rewritten to read as follows:

“§ 14-21. *Rape; punishment in the first and second degree.*—Every person who ravishes and carnally knows any female of the age of twelve years or more by force and against her will, or who unlawfully and carnally knows and abuses any female child under the age of twelve years, shall be guilty of rape, and upon conviction, shall be punished as follows:

(a) First degree rape:

- (1) If the person guilty of rape is more than sixteen years of age, and the rape victim is a virtuous female child under the age of twelve years, the punishment shall be death; or
- (2) If the person guilty of rape is more than sixteen years of age, and the rape victim had her resistance overcome or her submission procured by the use of a deadly weapon, or by the infliction of serious bodily injury to her, the punishment shall be death.

(b) Second degree rape—Any other offense of rape defined in this section shall be a lesser-included offense of rape in the first degree and shall be punished by imprisonment in the State’s prison for life, or for a term of years, in the discretion of the court.”

**Sec. 3.** G.S. 14-52 is hereby rewritten to read as follows:

“Any person convicted of the crime of burglary in the first degree shall be imprisoned for life in the State’s prison. Anyone so convicted of burglary in the second degree shall suffer imprisonment in the State’s prison for life, or for a term of years, in the discretion of the court.”

**Sec. 4.** G.S. 14-58 is hereby rewritten to read as follows:

“Any person convicted of the crime of arson shall suffer punishment by imprisonment for life in the State’s prison.”

**Sec. 5.** The first sentence of G.S. 148-58 is hereby rewritten to read as follows:

“All prisoners shall be eligible to have their cases considered for parole when they have served a fourth of their sentence, if their sentence is determinate, and a fourth of their minimum sentence, if their sentence is indeterminate; provided, that any prisoner serving sentence for life shall be eligible for such consideration when he has served 20 years of his sentence.”

**Sec. 6.** G.S. 14-2 is hereby rewritten to read as follows:

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“Every person who shall be convicted of any felony for which no specific punishment is prescribed by statute shall be punished by fine, by imprisonment for a term not exceeding ten years, or by both, in the discretion of the court. A sentence of life imprisonment shall be considered as a sentence of imprisonment for a term of 80 years in the State’s prison.”

**Sec. 7.** In the event it is determined by the North Carolina Supreme Court or the United States Supreme Court that a sentence of death may not be constitutionally imposed for any capital offense for which the death penalty is provided by this Act, the punishment for the offense shall be life imprisonment.

**Sec. 8.** This act shall become effective upon ratification and applicable to all offenses hereafter committed.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

## S. B. 976                      CHAPTER 1202

### AN ACT TO MAKE APPROPRIATIONS TO PROVIDE CAPITAL IMPROVEMENTS FOR STATE INSTITUTIONS, DEPARTMENTS, AND AGENCIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** This act shall be known as “The Capital Improvement Appropriations Act of 1974.”

**Sec. 2.** The appropriations made by this act are for the purpose of constructing buildings and utilities, the renovation of buildings and utilities, acquiring sites therefor where necessary, acquiring and installing equipment, and acquiring lands at the institutions, departments and agencies of the State hereinafter mentioned, as detailed in the 1974-75 Budget.

**Sec. 3.** The direct appropriations made by this act to provide for Capital Improvements under Sections 4, 5, and 6 of this act shall be disbursed for the purposes provided by this act upon warrants drawn by the State Disbursing Officer, which warrants shall not be drawn for any State institution, department, or agency until an allotment has been approved by the Director of the Budget, and which allotment shall be approved only after full compliance with the Executive Budget Act, Article I, Chapter 143, of the General Statutes. Any officer of this State or executive head of any institution, or any director, trustee, or commissioner of any State institution, department, or agency to which a direct or self-liquidating appropriation is made under the provisions of this act who votes for or aids in spending more money for any improvement for any institution, department, or agency than is appropriated therefor except as hereinafter provided, may be removed from office by the Governor. Any additional monies which may be received by means of a grant or grants from the United States of America or any agency or department thereof, or from any other source to aid in financing the cost of any of the improvements herein referred to may be placed by the State Treasurer in the same fund or in a separate fund and, to the extent permitted by terms of such grant or grants, with the approval of the Governor and the Advisory Budget Commission, shall be disbursed in the same manner and for the same purposes mentioned in this act, as detailed in the 1974-75 Budget. Appropriations for purchases of land in Section 4 of this act are consolidated into one appropriation to the Department of Administration. Prior to the execution of design or construction contracts in

respect to projects to be financed in whole or in part with self-liquidating appropriations the Advisory Budget Commission shall approve the method of financing such projects. Where direct appropriations are provided in this act for the purpose of furnishing movable equipment for any project, such funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. However, fixed equipment funds so provided may be expended under construction accounts to the specific amount required for equipment attached to or connected to the building for which it is intended. It is the intent of this act that projects listed herein shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided herein, except as hereinafter provided.

Sec. 4. There is hereby appropriated out of the General Fund the sum of ninety million two hundred twenty-six thousand three hundred thirty-seven dollars (\$90,226,337) for the use of the State institutions, departments and agencies to provide for capital improvement projects according to the following schedule:

DEPARTMENT OF ADMINISTRATION		\$36,505,000
1. New Office Building		
No. 2 & Mall Development Building	\$ 7,900,000	
Movable Equipment	<u>50,000</u>	
	7,950,000	
Less 1973 Appropriation	<u>300,000</u>	\$ 7,650,000
2. Purchase of Land		
State Parks	5,500,000	
N. C. State Government Center	<u>3,000,000</u>	8,500,000
3. New Office Building		
No. 3 & Mall Development Building	7,650,000	
Fixed Equipment	300,000	
Movable Equipment	<u>50,000</u>	8,000,000
4. Vehicular Parking Deck		
Motor Pool Dispatching Center		
Building	2,201,000	
Fixed Equipment	80,000	
Movable Equipment	<u>23,000</u>	
	2,304,000	
Less Self-Liquidating	1,600,000	
Less 1973 Appropriation	<u>125,000</u>	579,000
5. State Office Building, Charlotte, Building & Land	2,637,000	
Movable Equipment	<u>23,000</u>	2,660,000
6. State Office Building, Winston-Salem, Building & Land	1,879,000	
Movable Equipment	<u>17,000</u>	1,896,000

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7. Art Museum Supplement		2,250,000	
8. Reserve for Capital Improvements		4,000,000	
9. Archives-Library Annex Supplement		600,000	
10. SBI Building (Planning)		70,000	
11. Renovations and Repairs to State Buildings, Capitol Square		300,000	
DEPARTMENT OF JUSTICE			1,000,000
1. Construction and Renovation, Criminal Justice Academy		1,000,000	
DEPARTMENT OF AGRICULTURE			2,695,200
1. Village of Yesteryear, State Fair Building		310,000	
2. Dairy Unit, Piedmont Research Station			
Building	210,000		
Fixed Equipment	<u>40,000</u>	250,000	
3. Addition Laboratory Building, Raleigh			
Building	120,000		
Movable Equipment	<u>5,000</u>		
	125,000		
Less Receipts	<u>93,750</u>	31,250	
4. Supplement Analytical Chemistry Laboratory, Raleigh		316,950	
5. Cooperative Greenhouse Facility		172,000	
6. Livestock Events Building, N.C. State Fairgrounds		1,500,000	
7. Western Diagnostic Laboratory Supplement		115,000	
8. Random Sample Poultry Facility	72,000		
Less Receipts	<u>72,000</u>	-0-	
9. Environmental Controlled Swine Nursery	30,000		
Less Receipts	<u>30,000</u>	-0-	
DEPARTMENT OF CULTURAL RESOURCES			
Division of Archives and History			98,300
1. Town Creek, Visitor Center			
Building	79,000		
Fixed Equipment	8,000		

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Movable Equipment	<u>2,700</u>	89,700
2. Town Creek, Addition to Residence		8,600
DEPARTMENT OF PUBLIC EDUCATION		
Community Colleges		10,000,000
1. Community Colleges & Technical Institutes		
Total Projects	10,665,000	
Less Federal Funds	<u>665,000</u>	10,000,000
UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS		
1. Repairs & Replacements		
Project Supplements		
Compliance with Occupational Safety & Health Act		
Maintenance Facilities		
Removal of Architectural Barriers		
Advance Planning		5,946,000
2. N. C. Memorial Hospital		
Projects	2,090,000	
Less Receipts	<u>500,000</u>	1,590,000
DEPARTMENT OF NATURAL & ECONOMIC RESOURCES		
Division of State Parks		4,521,850
1. Development of State Parks and Water Based Recreation Areas		3,000,000
Division of Water & Air Resources		
1. Diking of Dredging Spoil Areas & Maintenance of Civil Works		
Projects		500,000
Division of Forest Resources		
1. Forest Seedling Greenhouse		
Building	58,000	
Fixed Equipment	16,000	
Movable Equipment	<u>11,000</u>	85,000
Division of Travel & Promotion		
1. Welcome Center on I-77		
Building	187,000	
Movable Equipment	<u>11,000</u>	198,000

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Kerr Reservoir Development Commission		138,750
1. Townsville Landing Development	277,500	
Less Federal Funds	<u>138,750</u>	
	138,750	
Air Transportation Service		
1. Airplane	598,000	
Less Receipts	<u>30,000</u>	568,000
Division of Commercial & Sports Fisheries		
1. Airplane	40,100	
Less Receipts	<u>8,000</u>	32,100
DEPARTMENT OF HUMAN RESOURCES		4,259,887
Department of Mental Health		
1. Community Mental Health Centers Facilities		3,000,000
N. C. School for the Deaf		
1. Renovate Main Building		
Building	431,500	
Fixed Equipment	<u>3,500</u>	435,000
Caswell Center		
1. Renovation Tapp Building Supplement		196,000
O'Berry Center		
1. Elevator		35,000
Cherry Hospital		
1. Laundry Supplement		593,887
DEPARTMENT OF SOCIAL REHABILITATION & CONTROL		19,810,100
1. Reserve for Replacement for Confinement Facilities		15,000,000
2. Vocational Training Facilities, 20 Locations Buildings		805,000
3. Sewerage & Water Improvements		447,000
4. Dormitory Renovations		175,500
5. Kitchen & Dining Hall Renovations		280,000
6. Renovate Bost Cottage, Morrison School		105,000
7. Renovate Sewerage System Morrison School		30,000
8. Resilient Floor Morrison School		40,000

9. Extend Water Mains Morrison School		8,600
10. Three Multi-Purpose Buildings Located at Harnett Youth Center, Caledonia & Odom		600,000
11. Compound Fencing		58,500
12. Renovate Hospital, Correctional Center for Women		13,000
13. Renovate Central Heat in Dormitories		32,500
14. Office Renovations		69,000
15. Dormitory Reroofing		20,000
16. Storage Building, Bladen Subsidiary		18,000
17. Shop Building, Western Correctional Center		70,000
18. Emergency Generators		36,000
19. Mobile Classrooms, 20 Locations		280,000
20. School & Administration Building, Juvenile Evaluation Center		
Building	1,542,000	
Fixed Equipment	30,000	
Movable Equipment	<u>70,000</u>	1,642,000
21. Fencing - Western Carolina Center		80,000

DEPARTMENT OF TRANSPORTATION  
AND HIGHWAY SAFETY

3,800,000

N. C. State Ports  
Authority

1. Container Cranes	3,800,000
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**Sec. 5.** There is hereby appropriated out of the Highway Fund the sum of three hundred seventy thousand dollars (\$370,000) for the use of the Department of Transportation to provide for Capital Improvement projects according to the following schedule:

N. C. DEPARTMENT OF  
MOTOR VEHICLES

\$ 370,000

1. Supplement - Addition to Motor Vehicle Building, Raleigh	280,000
2. Supplement - Office Building, Ahoskie	45,000
3. Supplement - Office Building, Hendersonville	45,000

**Sec. 6.** When each project appropriated for in Section 4 of this act, other than those projects under the University of North Carolina Board of Governors, is placed under construction contract, direct appropriations therefor shall be encumbered to include all costs for construction, design, investigation,

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administration, movable equipment and a reasonable contingency. Surplus direct appropriations remaining in the project budget after encumbering costs described above shall be placed in a Project Reserve Fund credited to the Department of Administration. Use of this Project Reserve Fund shall be at the discretion of the Director of the Budget, and solely to allow for award of contracts where bids exceed appropriated funds, on condition that such project supplemented shall have been designed within the physical scope intended by the applicable appropriation or any authorized change therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the Director of the Budget. The Project Reserve Fund shall not be used in connection with any projects under the University of North Carolina Board of Governors. At the discretion of the Advisory Budget Commission, any balances in the Project Reserve Fund shall revert to the original source.

**Sec. 7.** Upon the request of the department, agency or institution for which a capital improvement appropriation is herein made, the Governor with a majority vote of the membership of the Advisory Budget Commission is authorized and empowered to postpone any capital improvement project as provided in this act and upon a finding that the project cannot be carried out as originally intended by the General Assembly.

**Sec. 8.** The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the department, institution, or agency, authorize an increase or a decrease in size, scope, direct or self-liquidating appropriation, of any project or projects enumerated in this act within the funds available to that department, agency, or institution.

**Sec. 9.** The Director of the Budget and the Advisory Budget Commission may when, in their opinion, it is in the best interest of the State to do so and upon the request of the administration of any State agency or institution, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts, grants or receipts.

**Sec. 10.** The Director of the Budget is authorized and empowered to advance from the land-purchase appropriations made in this act, funds necessary for purchase of recreational land for which there is either no specific appropriation or only a partial appropriation, when reimbursement of such advances will be later effected by the Federal Bureau of Outdoor Recreation.

**Sec. 11.** Any lump sum appropriated in Section 4 of this act shall be used for specific projects of capital improvements from time to time and in accordance with the priority needs of the respective agencies, and as approved by the Advisory Budget Commission.

**Sec. 12.** There is appropriated in Section 4 of this act a lump sum to the University of North Carolina Board of Governors. Expenditure of funds in this appropriation shall be in accordance with provisions of Chapter 1244 of the 1971 Session Laws, and provisions of this act except where specifically excluded.

**Sec. 13.** Subject to any transfers and changes between appropriations as permitted in previous sections of this act, the appropriations for capital improvements made in this act shall be expended only for specific projects set out in this act. Construction of all capital improvement projects enumerated in this act shall be commenced or self-liquidating indebtedness with respect thereto shall be incurred on or before December 31, 1975; if construction on such project or projects has not been commenced or self-liquidating

indebtedness has not been incurred on or before December 31, 1975, then the direct appropriation for such project or projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in the Project Reserve Fund; provided, however, that subject to the approval of the Governor and the Advisory Budget Commission this deadline with respect to both direct and self-liquidating appropriations may be extended when, in the discretion of the Governor and the Advisory Budget Commission, existing circumstances and conditions warrant such extension.

**Sec. 14.** Any unencumbered direct appropriation balances remaining in the capital improvement funds of 1973 appropriated for construction and equipment shall revert to the original source on December 31, 1974; provided that the Governor and Advisory Budget Commission may grant further extension for specific projects in such cases where conditions warrant.

**Sec. 15.** The several departments, institutions, and agencies of the State are fully authorized and empowered to make application or applications to any agency or agencies of the United States of America for grant-in-aid for the construction of the several projects in this act and within the scope and intent of the projects enumerated in this act and to expend the same in accordance with the terms of such grants which are not contrary to the laws of this State. The Advisory Budget Commission and the Department of Administration, in its pertinent divisions, shall be furnished in advance with copies of all requests for federal funds and this information shall be kept current.

**Sec. 16.** If reversions of 1973-74 maintenance appropriations exceed \$60,800,000 by \$1,789,000 or more, the appropriation made herein for an office building in Winston-Salem is transferred to the University of North Carolina Board of Governors for the North Carolina School of the Arts, and \$1,789,000 of the reversions is added to that appropriation to build a core teaching facility at the School of the Arts in the amount of \$3,685,000.

**Sec. 17.** There is appropriated under Section 4 of this act to the Department of Administration the sum of four million dollars (\$4,000,000) as a Reserve for Capital Improvements Cost Increases to supplement previously appropriated construction projects authorized by the General Assembly. This reserve may be used at the discretion of the Director of the Budget solely to allow for award of contracts where bids exceed appropriated funds, on the condition that such supplemented projects shall have been designed within the physical scope intended by the applicable appropriation or any authorized changes therein, and all means to award contracts within the appropriation shall have been reasonably attempted in the opinion of the Director of the Budget.

**Sec. 18.** It is the intent of this General Assembly that, of the appropriations enumerated above in this act, the items below are to be financed from the General Revenue Sharing Trust Fund of the State, and that all the provisions of this act which are applicable to the remaining items are also applicable to those funded from the General Revenue Sharing Trust Fund of the State, to the end of providing maximum flexibility for the expenditure of the appropriations made herein consistent with federal regulations governing expenditure of general shared federal revenue.

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DEPARTMENT OF ADMINISTRATION

Office Building No. 2	\$ 7,650,000
Purchase of Land, Raleigh Area and Parks	8,333,913
Office Building No. 3	8,000,000
Office Building, Charlotte	2,660,000
Office Building, Winston-Salem	1,896,000
Art Museum Supplement	2,250,000
Archives - Library Annex Supplement	600,000

DEPARTMENT OF TRANSPORTATION AND HIGHWAY

North Carolina State Ports Authority	3,800,000
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DEPARTMENT OF AGRICULTURE 2,695,200

DEPARTMENT OF HUMAN RESOURCES

N. C. School for the Deaf	435,000
Caswell Center	196,000
Cherry Hospital	593,887

DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL

Office of Correction	
Reserve for Replacement of Confinement Facilities	15,000,000
Three Multi-Purpose Buildings	600,000
Mobile Classrooms	280,000
School and Administration Building	1,642,000

DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

Purchase of Airplane	<u>568,000</u>
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\$ 57,200,000

Sec. 19. This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

S. B. 1083

**CHAPTER 1203**

AN ACT TO AMEND G.S. 20-124 TO PROHIBIT THE SALE OF HOUSE TRAILERS NOT EQUIPPED WITH THE BRAKING SYSTEM REQUIRED BY LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (f) of G.S. 20-124 is hereby amended by adding a new paragraph thereto to read as follows:

“It shall be unlawful for any person or corporation engaged in the business of selling house trailers at wholesale or retail to sell or offer for sale any house trailer which is not equipped with the brakes required by this subsection.

This subsection shall not apply to house trailers being used as dwellings, or to house trailers not intended to be used or towed on public highways and roads. This subsection shall not apply to house trailers with a manufacturer’s certificate of origin dated prior to December 31, 1974.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1059

**CHAPTER 1204**

AN ACT TO CHANGE THE DATE OF EXEMPTION FROM EXAMINATION FOR LICENSES BY PRACTICING PLUMBING AND HEATING CONTRACTORS TO DECEMBER 31, 1973.

Whereas, it appears that certain contractors did not learn of the change in the law until after the deadline for filing the application had passed, and

Whereas, there needs to be some authority delegated to the Board of Examiners of Plumbing and Heating Contractors to consider late filed applications and to approve the same where the applicant was without fault in not filing on time. Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-21(d) is amended by adding a sentence to read as follows:

“The Board shall, however, consider an application initiated on or prior to December 31, 1973, which clearly shows that the applicant requested an application form prior to said date and filed said application late because he had no knowledge of the deadline, and which clearly shows that the applicant was engaged in the business alleged in the application on and prior to July 6, 1971, and that he otherwise meets the requirements of this Chapter.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1772 CHAPTER 1205

AN ACT TO ABOLISH THE COMMON LAW CRIME OF SUICIDE.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new general statute is hereby enacted as follows:

“§ 14-17.1. *Crime of suicide abolished.*—The common law crime of suicide is hereby abolished as an offense.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1803 CHAPTER 1206

AN ACT TO REQUIRE MOTOR CARRIERS LICENSED IN NORTH CAROLINA TO MAINTAIN MINIMUM LIMITS LIABILITY INSURANCE OF FIFTY THOUSAND DOLLARS (\$50,000)/ONE HUNDRED THOUSAND DOLLARS (\$100,000)/FIFTY THOUSAND DOLLARS (\$50,000).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-268 is hereby amended by adding thereto the following:

“The commission shall require that every motor carrier for which a certificate, permit, or license is required by the provision of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars (\$50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars (\$50,000) because of injury to or destruction of property of others in any one accident; and the commission may require any greater amount of insurance as may be necessary for the protection of the public.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1842 CHAPTER 1207

AN ACT TO AMEND CHAPTER 47 OF THE GENERAL STATUTES RELATING TO SEALS OMITTED FROM OFFICIAL DEEDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-51, as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended by striking out the date “February 1, 1971” appearing in line 2 thereof and inserting in lieu thereof the date “January 1, 1974”.

**Sec. 2.** G.S. 47-108.11, as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes, is hereby amended in the second paragraph on line 2, by striking out the date “January 1, 1969” and inserting in lieu thereof the date “January 1, 1974”.

**Sec. 3.** This act shall not apply to pending litigation.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

**H. B. 1843                      CHAPTER 1208**

AN ACT TO REPEAL G.S. 45-12 RELATING TO CERTIFICATE BY CLERK OF SUPERIOR COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 45-12, as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes, is hereby repealed.

**Sec. 2.** This act shall not apply to pending litigation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

**H. B. 1879                      CHAPTER 1209**

AN ACT TO AUTHORIZE THE PURCHASE OF LIABILITY INSURANCE FOR SCHOOL BOARD MEMBERS AND SCHOOL ADMINISTRATORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-78 is hereby amended by adding a new subsection (f) which shall read as follows:

“(f) Funds for the purchase of insurance to protect school board members and school administrators from liability incurred in the exercise of duties within the scope of their authority may be included in the school budget when authorized by the General Assembly, the State Board of Education or county or city Boards of Education when funds for the same are made available.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

**H. B. 1918                      CHAPTER 1210**

AN ACT TO REWRITE G.S. 113-102 RELATING TO PROTECTED AND UNPROTECTED GAME.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-102(a), as the same appears in Volume 3A of the General Statutes, is rewritten to read as follows:

“(a) Wild birds and animals for which no open seasons are provided shall be classed as protected and it shall be unlawful to take or possess them at any time except as provided by G.S. 113-87.”

**Sec. 2.** G.S. 113-102(b), as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is rewritten to read as follows:

“(b) Unprotected birds: English sparrows, blackbirds (except redwing blackbirds) and starlings and their nests and eggs. Other birds or animals which are not in need of protection or management may from time to time be classed as unprotected by the Wildlife Resources Commission in any locality or in the entire State, and when so classified they may be taken, possessed, bought, sold and transported at any time.”

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**Sec. 3.** G.S. 113-102(c), as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is rewritten to read as follows:

“(c) Unprotected birds or animals may not be taken by the use of dynamite or any explosive similarly used or by the use of any poison, except that this shall not apply to any such bird or animal when and where the same shall be declared a pest and appropriate regulations governing the use of pesticides for controlling the said pest have been considered pursuant to the provisions of the North Carolina Pesticide Law of 1971 or the Structural Pest Control Act of 1955.”

**Sec. 4.** G.S. 113-102(d), as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes, is redesignated as subsection (e) of said statute.

**Sec. 5.** G.S. 113-102 is amended by inserting a new subsection (d) as follows:

“(d) When and where a wild bird or animal is declared a pest pursuant to the provisions of the North Carolina Pesticide Law of 1971 or the Structural Pest Control Act of 1955 and has not been classed as unprotected by the Wildlife Resources Commission as provided in subsection (b) above, the Commission shall take one of the following actions within 60 days after proper notification of such declaration:

- (1) After holding a public hearing classify the wild bird or animal in question as either protected or unprotected. If the bird or animal is classed as protected, it shall be subject to subsection (a) above; if unprotected, action may be taken as determined pursuant to the North Carolina Pesticide Law of 1971 or the Structural Pest Control Act of 1955.
- (2) By inaction, or at its discretion, allow the bird or animal to automatically be classed as unprotected and subject to subsection (c) above.”

**Sec. 6.** This act shall not invalidate any city or local ordinances now in existence.

**Sec. 7.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

## H. B. 1926

## CHAPTER 1211

### AN ACT TO MAKE AMENDMENTS TO THE LAW RELATING TO THE DUTIES OF THE STATE AUDITOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-58 subparagraph (20) is hereby amended by deleting the entire paragraph and re-writing it to read as follows:

“The Auditor shall charge and collect from each Examining and Licensing Board the actual cost of each audit of such Board. Costs collected under this subsection shall be based on the actual expense incurred by the Auditor’s office in making such audit and the affected agency shall be entitled to an itemized statement of such costs. Amounts collected under this subsection shall be deposited in the General Fund as non-tax revenue.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1927                      **CHAPTER 1212**

AN ACT TO CLARIFY THE QUALIFICATION OF APPRAISERS IN CONDEMNATION PROCEEDING PURSUANT TO ARTICLE 11, CHAPTER 160A OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 698 of the Session Laws of 1971, as amended, is hereby further amended by rewriting the second sentence of Section 160A-248(a) of Article 11 of Chapter 160A of the General Statutes of North Carolina, as set forth in said Chapter 698 to read as follows:

“Each appraiser shall be a freeholder of the city or a county wherein the property being condemned lies who has no right, title, or interest in or to the property being condemned, is not related by blood or marriage to any of the owners, is not an officer, employee, or agent of the city, and is disinterested in the rights of the parties in every way.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1940                      **CHAPTER 1213**

AN ACT TO AMEND G.S. 108-45 TO PROHIBIT THE USE OF LISTS OF RECIPIENTS OF FINANCIAL ASSISTANCE OR SOCIAL SERVICES FOR POLITICAL PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-45 as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes is amended by adding thereto a new subsection (c) immediately following subsection (b), such new subsection to read as follows:

“(c) Any listing of recipients of benefits under any financial assistance or social services program compiled by or used for official purposes by a county board of social services or a county department of social services shall not be used as a mailing list for political purposes. This prohibition shall apply to any list of recipients of benefits of any federal, State, county or mixed financial assistance or social services program. Further, this prohibition shall apply to the use of such listing by any person, organization, corporation, or business, including but not limited to public officers or employees of federal, State, county, or other local governments, as a mailing list for political purposes. Any violation of this section shall be punishable as a general misdemeanor.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1952                      **CHAPTER 1214**

AN ACT AUTHORIZING COUNTIES TO PROVIDE MASS TRANSIT SERVICES TO THE END THAT COUNTIES AND CITIES MAY COOPERATE IN PROVIDING ALTERNATIVES TO PRIVATE PASSENGER AUTOMOBILES.

Whereas, city governments have authority to provide mass transit services pursuant to G.S. Chapter 160A, Article 16; and

Whereas, cities and counties are authorized by G.S. Chapter 160A, Article 20 to jointly provide any public service that they may provide alone; and

Whereas, the current energy crisis has emphasized the need for local cooperation in providing mass transit services to the people as an alternative to private passenger automobiles, but counties are not presently authorized to provide such services; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-274, as enacted by Chapter 822 of the Session Laws of 1973, and as the same appears in Pamphlet No. 8 of the Advance Legislative Service to the General Statutes of North Carolina, is amended by changing the period at the end of the section to a comma and by inserting a new paragraph therein as follows:

“(6) Bus lines and mass transit systems.”

**Sec. 2.** This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1977                      **CHAPTER 1215**

AN ACT TO AMEND G.S. 159-39 PERTAINING TO PUBLIC HOSPITALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivisions (1) and (2), G.S. 159-39, as the same appears in the 1973 Cumulative Supplement to Volume 3D of the General Statutes, are amended to read as follows:

“(1) Is operated by a county, city, hospital district, or hospital authority, or

(2) Is owned by a county, city, hospital district or hospital authority and operated by a nonprofit corporation or association, a majority of whose board of directors or trustees are appointed by the governing body of a county, city, hospital district, or hospital authority, or”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 2008                      **CHAPTER 1216**

AN ACT TO AMEND G.S. 115-133.2 RELATING TO THE POWER OF  
BOARDS OF EDUCATION TO OFFER REWARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-133.2 as the same appears in Volume 3A of the 1973 Cumulative Supplement of the General Statutes of North Carolina is hereby amended by deleting from line 2 the words and figures “fifty dollars (\$50.00)” and inserting in lieu thereof the words and figures “three hundred dollars (\$300.00)”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 2019                      **CHAPTER 1217**

AN ACT TO MAKE AN AMENDMENT IN THE LAW RELATING TO  
THE COMPOSITION OF OFFICERS OF CORPORATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 55-34(a) as the same appears in Volume 2B of the General Statutes of North Carolina is hereby amended by deleting therefrom its entirety and inserting in lieu thereof, the following words: “Every corporation organized under this Chapter shall have such officers with such titles and duties as shall be stated in the by-laws and as may be necessary to enable it to sign instruments and stock certificates and to conduct its business in compliance with this Chapter. Any number of offices may be held by the same person and any one office may be held collectively by one or more persons unless the articles of incorporation or by-laws otherwise provide, but no officer may act in more than one capacity where action of two or more officers is required. Whenever a specific office is referred to in this Chapter, it shall be deemed to include any person who, individually or collectively with one or more other persons, holds or occupies such office.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 2050                      **CHAPTER 1218**

AN ACT TO AMEND G.S. 18A-36 REGARDING THE MANUFACTURE  
OF WINE AND MALT BEVERAGES FOR PRIVATE USE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-36 is rewritten to read as follows:

“§ 18A-36. *Making wines and malt beverages for private use.*— Notwithstanding any other provisions of law, it shall be lawful for an individual to make native wines and to possess and transport such wines for the use of his family and bona fide guests; provided that such native wine is made from wild or cultivated grapes, fruits or berries grown or purchased by him. It shall be lawful for an individual to sell or purchase wine kits approved by the State Board of Alcoholic Control which contain concentrates made from grapes, fruits or berries, and to make wine for the use of his family and bona fide guests. It

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shall be lawful for an individual to sell or purchase malt beverage kits approved by the State Board of Alcoholic Control which contain grain extracts or concentrates, and to make malt beverages for the use of his family and bona fide guests. No license or permit shall be required for wines made pursuant to this Section and no tax shall be imposed.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

## H. B. 2077                      CHAPTER 1219

AN ACT TO AMEND CHAPTER 657 OF THE 1973 SESSION LAWS AUTHORIZING THE ISSUANCE OF THREE HUNDRED MILLION DOLLARS (\$300,000,000) IN BONDS OF THE STATE TO PROVIDE FUNDS FOR PUBLIC SCHOOL FACILITIES WITH RESPECT TO THE ALLOCATION OF THE PROCEEDS OF SAID BONDS.

Whereas, Chapter 657 of the 1973 Session Laws authorizes the issuance of three hundred million dollars (\$300,000,000) in bonds of the State to provide funds for public school facilities in the counties of the State subject to a vote of the people of the State; and

Whereas, the people of the State have approved at an election thereon the issuance of said bonds; and

Whereas, said Chapter 657 provides for the allocation of seven hundred fifty thousand dollars (\$750,000) of the proceeds of said bonds to the State Board of Education for the purposes therein authorized and allocates and distributes to the county and city administrative units of the State the balance of two hundred ninety-nine million two hundred fifty thousand dollars (\$299,250,000) of such proceeds to such units in the amounts specifically set forth therein; and

Whereas, the total of the specific amounts allocated to said units amounts to two hundred ninety-nine million one hundred sixty thousand dollars (\$299,160,000) rather than the two hundred ninety-nine million two hundred fifty thousand dollars (\$299,250,000) provided for thereby, a difference of ninety thousand dollars (\$90,000); and

Whereas, the Montgomery Administrative Unit should have received an allocation of one million one hundred ninety-one thousand sixteen dollars and eighty-six cents (\$1,191,016.86) rather than the allocation of one million one hundred one thousand sixteen dollars and eighty-six cents (\$1,101,016.86) set forth in said Chapter 657, in which event the total of the specified allocations would have equaled two hundred ninety-nine million two hundred fifty thousand dollars (\$299,250,000); Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2 of Chapter 657 of the 1973 Session Laws of the General Assembly of North Carolina is hereby amended by changing the allocation set forth therein to the Montgomery Administrative Unit from one million one hundred one thousand sixteen dollars and eighty-six cents (\$1,101,016.86) to one million one hundred ninety-one thousand sixteen dollars and eighty-six cents (\$1,191,016.86).

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

**H. B. 2085                      CHAPTER 1220**

**AN ACT TO VALIDATE DEEDS OR OTHER INSTRUMENTS OF CONVEYANCE WHERE THE SIGNATURE OF GRANTOR OR THE ACKNOWLEDGMENT FAILS TO DESIGNATE GRANTOR'S OFFICIAL CAPACITY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 4, Chapter 47, of the General Statutes is hereby amended by adding a new section thereto to be designated as G.S. 47-108.17, to read as follows:

“§ 47-108.17. *Validation of certain deeds where official capacity not designated.*—In all cases where an executor, executrix, administrator, administratrix, guardian or commissioner has executed a deed, deed of trust or other instrument of conveyance permitted by law to be registered in this State and the granting clause of the instrument sets forth the official capacity of the grantor, neither the failure to re-designate the grantor's official capacity following his or her signature nor the failure to designate the official capacity of the grantor in the acknowledgment of the instrument shall invalidate the conveyance provided the instrument is otherwise properly executed.”

**Sec. 2.** This act shall not apply to pending litigation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

**H. B. 2104                      CHAPTER 1221**

**AN ACT TO AMEND G.S. 135-28.1 RELATING TO DISTRICT COURT JUDGES UNDER THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE UNIFORM JUDICIAL RETIREMENT SYSTEM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-28.1, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new subsection at the end thereof, to be designated as subsection (e), and to read as follows:

“(e) When any judge of a district court division of the General Court of Justice shall have made application for disability retirement prior to January 1, 1974, while a member of this Retirement System to become effective after January 1, 1974, and such judge died before January 1, 1974, and there was filed with the application for disability retirement a statement by a physician that such judge was permanently and totally disabled, such person shall be deemed to have complied with all provisions of this Retirement System as of the date of application for disability retirement and no action of the medical board shall be necessary. He shall be presumed to have chosen Option 2 as to retirement benefits and survivor's benefits shall commence immediately and shall also be paid retroactively to the first day of the calendar month following such judge's death.”

CHAPTER 1221 Session Laws—1973

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

S. B. 1420

**CHAPTER 1222**

AN ACT TO AMEND ARTICLE V OF THE CONSTITUTION OF NORTH CAROLINA TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO FINANCE INDUSTRIAL FACILITIES INCLUDING POLLUTION CONTROL FACILITIES, LAND OR EQUIPMENT RELATED THERETO, AND THE RATIFICATION, VALIDATION, CONFIRMATION AND APPROVAL OF CHAPTER 633 OF THE 1971 SESSION LAWS OF THE GENERAL ASSEMBLY AS AMENDED WITH RESPECT TO THE FOREGOING FACILITIES AND OF THE PROCEEDINGS TAKEN PURSUANT THERETO BY ANY COUNTY OF THE STATE IN THE CREATION OF A COUNTY POLLUTION ABATEMENT AND INDUSTRIAL FACILITIES FINANCING AUTHORITY AND ALL PROCEEDINGS TAKEN BY AN AUTHORITY SO CREATED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article V of the Constitution of North Carolina is hereby amended by adding a new section, to be designated as Section 8, immediately following Section 7 and to read as follows:

“Sec. 8. *Capital projects for industry.*-To create jobs and employment opportunities, to improve the economic welfare of the State, and to provide for the protection of the environment and the health and well-being of the people of the State that notwithstanding any other provision of this Constitution, the General Assembly may enact laws to authorize the State or any county or any authority created by the State or any county to issue revenue bonds to finance the cost of acquiring and constructing capital projects consisting of industrial facilities, including any pollution control facilities, land or equipment related thereto. Such bonds shall be payable from revenues derived from the ownership, leasing, sale or other disposition of any capital projects or part thereof and shall be deemed to have been issued for a public purpose, but such bonds shall not be secured by moneys derived from the exercise of the taxing power of any such issuer and no such issuer shall have the right to acquire property for such purposes through the exercise of the power of eminent domain. Every such capital project in which any non-governmental entity has an interest derived from the ownership, leasing, sale or other disposition of such capital project shall be subject to property taxation. Every such project shall be taxed to such non-governmental entity as if such non-governmental entity was seized of such project in fee simple.

Chapter 633 of the 1971 Session Laws as amended by Chapter 476 of the 1973 Session Laws which authorizes the issuance of revenue bonds by county pollution abatement and industrial facilities financing authorities to finance the cost of acquiring and constructing capital projects consisting of industrial and pollution control facilities among others is hereby ratified, validated, confirmed and approved. Such revenue bonds are payable solely from the revenues from the sale, lease, fees or charges levied with respect to the facilities being so financed. The actions heretofore taken by the governing body of any county of the State

in the creation of a county pollution abatement and industrial facilities financing authority pursuant to said Chapter 633 as amended are hereby validated, ratified, confirmed and approved, and all proceedings taken by any authority so created in authorizing the financing of industrial and pollution control facilities are hereby validated, ratified, confirmed and approved in all respects.”

**Sec. 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next general election. That election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

FOR constitutional amendment to create jobs and employment opportunities and to protect the environment by authorizing the issuance of revenue bonds to finance industrial and pollution control facilities among others for industry and the ratification, validation, confirmation and approval of Chapter 633 of the 1971 Session Laws as amended by Chapter 476 of the 1973 Session Laws of the General Assembly which implements the foregoing and of the proceedings taken pursuant thereto by any county of the State in the creation of a county pollution abatement and industrial facilities financing authority and all proceedings by an authority so created in authorizing the financing of industrial and pollution control facilities.”

AGAINST constitutional amendment to create jobs and employment opportunities and to protect the environment by authorizing the issuance of revenue bonds to finance industrial and pollution control facilities among others for industry and the ratification, validation, confirmation and approval of Chapter 633 of the 1971 Session Laws as amended by Chapter 476 of the 1973 Session Laws of the General Assembly which implements the foregoing and of the proceedings taken pursuant thereto by any county of the State in the creation of a county pollution abatement and industrial facilities financing authority and all proceedings by an authority so created in authorizing the financing of industrial and pollution control facilities.”

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by making an “X” or a check mark in the square beside the statement beginning “FOR”, and those qualified voters opposed to that amendment shall vote by making an “X” or a check mark in the square beside the statement beginning “AGAINST”.

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

**Sec. 3.** If a majority of votes cast thereon are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment shall become effective upon such certification.

**Sec. 4.** All laws and clauses of laws in conflict with this act are repealed.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

AN ACT TO MAKE TECHNICAL CHANGES IN G.S. 163 RELATING TO ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-20(b), as enacted by Section 3, Chapter 793, 1973 Session Laws, is amended by changing the word “three” in the last sentence thereof to the word “four”.

**Sec. 2.** G.S. 163-41(a) is amended in the fourth paragraph thereof by rewriting the first sentence thereof to read as follows:

“§ 163-41(a) The Chairman of each political party in the county where possible shall recommend three registered voters in each precinct who are otherwise qualified, are residents of the precinct, have good moral character, and are able to read and write, for appointment as registrar in the precinct, and he shall also recommend where possible the same number of similarly qualified voters for appointment as judges of election in that precinct.”

**Sec. 3.** G.S. 163-72(c), as enacted by Section 27, Chapter 793, 1973 Session Laws, is amended by adding the words “or special registration commissioner” after the words in the second sentence “or with a registrar” and before the words “an affidavit”.

**Sec. 4.** G.S. 163-72.1(e), as enacted by Section 28, Chapter 793, 1973 Session Laws, is amended by changing the word “ten” in the first sentence thereof to the word “twenty” and by changing the word “twenty” in the second sentence thereof to the word “ten”.

**Sec. 5.** G.S. 163-74(b), as enacted by Section 31, Chapter 793, 1973 Session Laws, is amended by adding the words “or special registration commissioner” after the words in the first sentence thereof “a registrar” and before the words “in accordance”.

**Sec. 6.** G.S. 163-88 is amended in the oath given to a challenged voter by striking the words “resided in this State for one year, and in this precinct for 30 days” and adding in lieu thereof the words “resided in this State and in the precinct for which registered for 30 days”.

**Sec. 7.** G.S. 163-150(g), as enacted by Section 60, Chapter 793, 1973 Session Laws, is amended by striking the words “that this prohibition shall not apply to husbands and wives” in the first sentence thereof and substituting thereof “husbands and wives may occupy the same voting booth if both wish to do so”.

**Sec. 8.** G.S. 163-280(a), as enacted by Section 75, Chapter 793, 1973 Session Laws, is amended by changing the word “partisan” in the last sentence of the first paragraph thereof to “nonpartisan or partisan”.

**Sec. 9.** G.S. 163-281(a), as enacted by Section 80, Chapter 793, 1973 Session Laws, is amended by changing the word “partisan” in the second sentence to “nonpartisan or partisan”.

**Sec. 10.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

H. B. 1773

**CHAPTER 1224**

**AN ACT RELATING TO REGULATION OF EMERGENCY MEDICAL SERVICES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** For the purposes of transferring the responsibility for ambulance regulation from the Commission for Health Services to the North Carolina Medical Care Commission, the following amendments to Article 26 of Chapter 130 of the General Statutes, as it appears in Volume 3B of the 1973 Cumulative Supplement, are hereby made:

- (1) The words "Commission for Health Services" are hereby deleted and the words "North Carolina Medical Care Commission" are inserted in lieu thereof in lines 7 and 8 of G.S. 130-230(b), in lines 1 and 2 of G.S. 130-232(a), in line 5 of G.S. 130-232(b), in line 1 of G.S. 130-233(b), and in line 8 of G.S. 130-233(c);
- (2) The words and punctuation "Department, with the approval of the Emergency Medical Services Advisory Council," are hereby deleted and the words "North Carolina Medical Care Commission" are inserted in lieu thereof on lines 5 and 6 of G.S. 130-233(a); and
- (3) The second sentence in G.S. 130-233(b) is hereby deleted.

**Sec. 2.** G.S. 143-508, as it appears in Volume 3C of the 1973 Interim Supplement to the General Statutes, is hereby amended by adding the following at the end thereof:

"The North Carolina Medical Care Commission is authorized and directed to adopt rules and regulations to carry out the purpose of this Article and Article 26 of Chapter 130 of the General Statutes of North Carolina. Such rules and regulations shall be adopted with the advice of the Emergency Medical Services Advisory Council. All rules and regulations not inconsistent with the provisions of this Article heretofore adopted by the State Board of Health or the Commission for Health Services shall remain in full force and effect until repealed or superseded by action of the North Carolina Medical Care Commission."

**Sec. 3.** G.S. 143B-165 is hereby amended by adding a new subdivision (9) as follows:

"(9) The Commission shall have the power and duty to adopt rules and regulations with regard to emergency medical services in accordance with the provisions of Article 26 of Chapter 130 and Article 56 of Chapter 143 of the General Statutes of North Carolina."

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of April, 1974.

CHAPTER 1225 Session Laws—1973

S. B. 1067 CHAPTER 1225

AN ACT TO RAISE THE LIABILITY LIMITS FOR TORT CLAIMS OF STATE DEPARTMENTS, INSTITUTIONS AND AGENCIES FROM TWENTY THOUSAND DOLLARS (\$20,000) TO THIRTY THOUSAND DOLLARS (\$30,000).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-291 as the same appears in the 1973 Interim Supplement to Volume 3C of the General Statutes of North Carolina is hereby amended by striking from the lines 18 and 19 the words and figures "Twenty Thousand Dollars (\$20,000)" following the words "the sum of", and inserting in lieu thereof "Thirty Thousand Dollars (\$30,000)".

**Sec. 2.** This act shall not apply to claims arising prior to ratification.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

H. B. 1355 CHAPTER 1226

AN ACT TO AMEND CHAPTER 18A OF THE GENERAL STATUTES SO AS TO CLARIFY SUCH STATUTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 18A-30(4)a. as the same appears in the 1971 Cumulative Supplement of the General Statutes of North Carolina is hereby amended by deleting therefrom the word "separate" as the same appears in line two of G.S. 18A-30(4)a.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

H. B. 1617 CHAPTER 1227

AN ACT TO REDUCE THE STATE PRIVILEGE LICENSE TAX UPON THE EXHIBIT OF RIDING DEVICES FROM TEN DOLLARS (\$10.00) PER WEEK TO EITHER FIVE DOLLARS (\$5.00) PER WEEK OR TWO HUNDRED DOLLARS (\$200.00) A YEAR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-39(a) is hereby amended by rewriting the second proviso beginning on line 23 to read as follows:

"Provided, that when a person, firm or corporation exhibits only riding devices which are not a part of, nor used in connection with any carnival company, the tax shall be five dollars (\$5.00) per week for each such riding

device. In lieu of the five dollar per week tax levied herein, a person, firm or corporation may apply for an annual statewide license, and the same may be issued by the Secretary of Revenue for the sum of two hundred dollars (\$200.00) per riding device, paid in advance, prior to the first exhibition in the State, shall be valid in any county, and shall be in full payment of all State license taxes imposed in this section. Counties, cities and towns may levy and collect a license tax upon such riding devices not in excess of five dollars (\$5.00) for each such device.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

**H. B. 1652                                      CHAPTER 1228**

**AN ACT TO AMEND G.S. 87-43.3 AND 87-44 IN ORDER TO PROVIDE FOR THE LICENSING OF PERSONS, FIRMS OR CORPORATIONS TO ENGAGE IN THE BUSINESS OF SPECIAL RESTRICTED ELECTRICAL CONTRACTING.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 87-43.3, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by deleting the word “three”, as said word appears in line 2 of said section, and by inserting in lieu thereof the words “the following”; by deleting the word “and”, as said word appears in line 7 of said section; by deleting the period which follows the word “value” in line 9 of said section, by inserting in lieu of the period a semicolon, and by inserting after said semicolon the following: “and such other special *Restricted* classifications as the Board may establish from time to time to provide for the licensing of persons, firms or corporations wishing to engage in special restricted electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature; and for the licensing of persons, firms or corporations wishing to engage in electrical contracting work as an incidental part of their primary business, which is a lawful business other than electrical contracting, under which license a licensee shall be permitted to engage only in a specific phase of electrical contracting of a special, limited nature directly in connection with said primary business.”

**Sec. 2.** G.S. 87-44, as the same appears in the 1971 Cumulative Supplement to the General Statutes, is hereby amended by deleting the period at the end of the first paragraph, by inserting in lieu of the period a semicolon, and by inserting after said semicolon the following: “and the annual license fee for the special restricted classifications shall not be in excess of twenty dollars (\$20.00) for each principal and each branch place of business.”

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

H. B. 1758

CHAPTER 1229

AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICE ACT SO AS TO EXEMPT FULL TIME SWORN NORTH CAROLINA LAW ENFORCEMENT OFFICERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 74B-15(g) is hereby amended and rewritten to read as follows:

“(g) No law enforcement officer of the United States, this State or any of its agencies or political subdivisions shall be licensed under this act; provided, however, nothing in this act shall be construed to prohibit a law enforcement officer from being employed during his off-duty hours to perform services regulated by this act on a purely employee-employer relationship by persons or organizations not licensed by this act.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

H. B. 2055

CHAPTER 1230

AN ACT TO PROVIDE FOR DETENTION OF JUVENILES ON A STATEWIDE BASIS.

Whereas, there are eight juvenile detention homes located in eight urban counties which provide detention of juveniles before or after a juvenile hearing as ordered by the court which vary in suitability of physical facility, adequacy of personnel and program, and quality of care for children held in detention. In the other counties, it is necessary to use local jails when detention of juveniles is required for the protection of the community or the best interest of the child; and

Whereas, the continuing use of jails for detention of children is a problem of serious consequence to the State so that it seems imperative to develop a statewide plan for juvenile detention services; and

Whereas, the National Juvenile Detention Association completed a study of juvenile detention in North Carolina during 1972 and published a written report of this study in January, 1973, which is entitled *Juvenile Detention in North Carolina: A Study Report*. This report identifies the problems and recommends a regional approach to the problems of juvenile detention within the State; and

Whereas, the purpose of this legislation is to provide a legal structure for implementation of the recommendations of this report; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 134 is amended by adding Article 6 to read as follows:

“Article 6

“Detention Services

“§ 134-35. *Legislative intent and purpose.*—The General Assembly hereby declares its intent and legislative policy with respect to detention of children alleged to be within the juvenile jurisdiction of the district court as delinquent or undisciplined: The General Assembly intends that the State-level

responsibility for juvenile detention services shall be divided between two State agencies as follows: The Department of Human Resources shall continue to provide the services outlined in Part 3, Article 3, General Statutes Chapter 108 and Article 10, General Statutes Chapter 153A, in relation to juvenile detention homes, including development of State standards, inspections, consultation, technical assistance and training so that the providers of juvenile detention care will be subject to inspection by a separate agency. The State Department of Youth Development shall be responsible for development and administration of the regional detention homes as recommended in the Report and for coordination of regional detention services through existing county detention homes. Further, the General Assembly intends that both State agencies shall have some administrative flexibility in implementation of the Report so as to allow appropriate time for planning and to operate within available funds from State and other sources.

“§ 134-36. *Definitions.*—The following terms or phrases shall be defined as follows in this Article unless the context or subject matter otherwise requires:

(1) ‘Juvenile detention’ refers to detention of a child alleged to be undisciplined or delinquent before or after a juvenile hearing as authorized by G.S. 7A-286(3).

(2) ‘County detention home’ means one of the existing county-supported detention homes for juveniles or one which may be established by a county or other unit of local government in the future.

(3) ‘Regional detention home’ means a State-supported and administered regional facility providing detention care as recommended by the report.

(4) ‘Holdover facility’ means a place approved by the Department of Human Resources for detention of juveniles for not more than 72 hours prior to placement in an approved detention home.

(5) ‘Report’ means the report of the National Juvenile Detention Association entitled *Juvenile Detention in North Carolina: A Study Report*, released in January, 1973.

(6) ‘Department’ means the State Department of Youth Development as provided for in General Statutes Chapter 134 or any department of State government to which responsibility for operation of institutions for committed delinquent youth may be assigned by legislation relating to State government organization.

“§ 134-37. *Regional detention services.*—The Department shall establish a unit for juvenile detention services within the Department which shall be responsible for the development of a statewide plan for regional juvenile detention services as recommended by the Report which will offer juvenile detention care of sufficient quality to meet State standards to any child requiring juvenile detention care within the State in a county detention home or a regional detention home by January 1, 1979, as follows:

(1) The Department shall plan with the counties operating a county detention home to provide regional juvenile detention services to surrounding counties as recommended by the Report, except that the Department shall have some discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate variable factors.

(2) The Department shall plan for and administer five or more regional detention homes as recommended in the Report, including careful planning on

location, architectural design, construction, and administration of a program to meet the needs of children in juvenile detention care. Both the physical facility and the program of a regional detention home shall comply with State standards.

“§ 134-38. *State subsidy to county detention homes.*—The Department shall develop a State subsidy program to pay a county detention home which provides regional juvenile detention services and meets State standards a certain portion of its operating costs and its per capita daily cost per child for any child cared for from another county as recommended in the Report. In general, this subsidy should be fifty percent (50%) of the operating costs of a county detention home and one hundred percent (100%) of the per capita daily cost of caring for a child from another county; any county placing a child in the county detention home of another county providing regional juvenile detention services or a regional detention home should pay fifty percent (50%) of the per capita daily cost of caring for the child to the Department. The exact funding formulas may be varied by the Department to operate within existing State appropriations or other funds that may be available to pay for juvenile detention care.

“§ 134-39. *Authority for implementation.*—In order to allow for effective implementation of a statewide regional approach to juvenile detention, the Department shall have legal authority to do the following:

(1) To make rules and regulations necessary to fulfill its responsibilities under this Article;

(2) To plan with counties operating county detention homes to provide regional services and to upgrade physical facilities as recommended in the Report, to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards;

(3) To develop one or more pilot programs to demonstrate quality juvenile detention care on a regional basis that meet State standards;

(4) To develop a plan whereby law enforcement officers, court personnel or other appropriate employees of local government shall be reimbursed by the State for the costs of transportation of a child to and from any juvenile detention facility;

(5) To seek funding for juvenile detention services from federal sources, and to accept gifts of funds from public or private sources; and

(6) To transfer State funds appropriated for institutional programs or other services to develop a pilot program of juvenile detention care, to purchase detention care in a county detention home which meets State standards, or to operate a regional detention home.”

**Sec. 2.** G.S. Chapter 153A is amended by adding G.S. 153A-221.1 to read as follows:

“§ 153A-221.1. *Standards and inspections.*—The legal responsibility of the Secretary of Human Resources and the Social Services Commission for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training. Further, the legal responsibility of the Department of Human Resources is hereby expanded to give said Department the same legal responsibility as to the State-administered regional detention homes which

shall be developed by the State Department of Youth Development as provided by G.S. 134-37.

The Secretary of Human Resources shall develop new standards which shall be applicable to county detention homes and regional detention homes as defined by G.S. 134-36 in line with the recommendations of the report entitled *Juvenile Detention in North Carolina: A Study Report* (January, 1973) where practicable, and such new standards shall become effective not later than July 1, 1977.

The Secretary of Human Resources shall also develop standards under which a local jail may be approved as a holdover facility for not more than 72 hours pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child."

**Sec. 3.** G.S. 110-24 is rewritten to read as follows:

"§ 110-24. *Requirements for lawful juvenile detention.*—It shall be unlawful for any child coming within the provisions of Article 23 of General Statutes Chapter 7A to be placed in any jail, prison or other penal institution where such child will come into contact with adults charged with or convicted of crimes, except that a court may detain a child in a jail with a holdover facility for juveniles approved by the Department of Human Resources as meeting the State standards as provided by Part 3, Article 3, General Statutes Chapter 108 and Article 10, General Statutes Chapter 153A.

Children who are alleged or adjudicated to be delinquent or undisciplined as defined by Article 23, General Statutes Chapter 7A, and who require secure custody for the protection of the community or in the best interest of the child may be temporarily detained in a county detention home or a regional detention home as defined by G.S. 134-36 which shall be separate from any jail, lockup, prison, or other adult penal institution. It shall be unlawful for a county or any unit of government to operate a juvenile detention home unless the facility meets the State standards of the Department of Human Resources.

A juvenile detention facility shall be located in a building designed to provide secure custody which meets State standards and shall have such personnel as may be necessary to provide for the supervision and safety of the children being detained. A juvenile detention home shall provide a program for children detained therein which meets the standards of the Department of Human Resources, and such program shall be designed to provide wholesome activities in the best interest of the children placed therein."

**Sec. 4.** This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 9th day of April, 1974.

S. B. 583

CHAPTER 1231

AN ACT TO PROVIDE FOR THE FINANCING OF REGIONAL HEALTH PLANNING.

Whereas, it is the public policy of this State to provide for and encourage comprehensive health planning as a means of increasing the availability of health services; and

Whereas, making health services accessible and available is in the public interest and areawide comprehensive health planning tends to reduce costs and promote accessibility through facilitation of the orderly and logical development of health care facilities and programs; and

Whereas, the General Assembly declares that the continuation of areawide health planning is in the best interest of the State; and

Whereas, the General Assembly recognizes the importance to the State health planning effort of the locally constituted and directed areawide comprehensive health planning councils officially serving North Carolina multi-county planning regions established by executive order; and

Whereas, in reviewing, commenting on, or approving proposed health programs and in developing plans to meet the health needs of the sub-state regions, these local councils are essential to the functioning of the State Office of Comprehensive Health Planning which has the overall responsibility for formulation of health policies and plans; and

Whereas, inasmuch as the activities of these local planning councils are of significant benefit to the State, the General Assembly intends hereby to provide funds for the support of local areawide health planning councils; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State the amount of one hundred and fifty thousand dollars (\$150,000) to the Office of State Planning of the Department of Administration to be used to make funding grants for the partial support of the locally constituted and directed areawide comprehensive health planning councils officially serving North Carolina multi-county planning regions established by executive order.

**Sec. 2.** The Office of State Planning of the Department of Administration is authorized and directed to adopt and promulgate rules and regulations governing allocation and the use of these grant funds but shall not make any grant to a single areawide comprehensive health planning agency of less than eight thousand dollars (\$8,000) for each region the agency serves.

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 974

**CHAPTER 1232**

AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE COASTAL AREA MANAGEMENT ACT OF 1974.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Natural and Economic Resources, to be expended in cooperation with the Department of Administration, the sum of two hundred thousand dollars (\$200,000) from the General Fund for fiscal year 1974-75, to implement the Coastal Area Management Act of 1974, including provision for local planning grants as well as administrative expenses.

**Sec. 2.** This act shall become effective upon the ratification of the Coastal Area Management Act of 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1019

**CHAPTER 1233**

AN ACT TO AMEND G.S. 135-1, RELATING TO THE RETIREMENT SYSTEM SERVICE CREDIT FOR CERTAIN CIVILIAN EMPLOYEES OF THE NATIONAL GUARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-1, Subdivision 10, is hereby amended by inserting the following immediately preceding the last sentence of the subdivision:

“Any full-time civilian employee of the national guard described above who is now or hereafter may become a member of the Retirement System may secure Retirement System credit for such service as a national guard civilian employee for the period preceding the time when such employees became eligible for Retirement System coverage by paying to the Retirement System an amount equal to that which would have constituted employee contributions if he had been a member during the years of ineligibility, plus interest.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1046

**CHAPTER 1234**

AN ACT APPROPRIATING FUNDS FOR THE ESTABLISHMENT OF THE THOMAS WOLFE MEMORIAL AS A STATE HISTORIC SITE.

Whereas, Thomas Wolfe was born at 92 Woodfin Street in Asheville, North Carolina, on October 3, 1900, and in the short 38 years of his life gained renown for himself and his State through eminence in literary achievement, his writings characterizing him as one of history's most gifted authors; and

Whereas, the formative years of Thomas Wolfe were spent at 48 Spruce Street, Asheville, in the Old Kentucky Home, referred to in his writings as Dixieland; and

Whereas, this historic literary shrine, now known as the Thomas Wolfe Memorial, was generously donated by his family to the City of Asheville and has become a popular North Carolina attraction, having in 1972 been designated as

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a National Historic Landmark by the United States Department of the Interior; and

Whereas, the City of Asheville, with the approval of Tom's sole surviving brother, Fred W. Wolfe, has agreed to donate the said Thomas Wolfe Memorial to the State of North Carolina for maintenance and operation as a State historic site, subject to favorable legislative action leading to acceptance by the State; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** That the Thomas Wolfe Memorial be incorporated into the statewide system of State historic sites to broaden the themes now covered in the system and ensure the appropriate and perpetual commemoration of the life and literary accomplishments of one of the State's most notable sons.

**Sec. 2.** This act shall be in full force and effect on and after July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1054

## CHAPTER 1235

AN ACT TO ESTABLISH A UNIFORM SOLICITORIAL RETIREMENT SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 135 of the General Statutes is hereby amended by inserting therein a new Article 4A to read as follows:

“Article 4A.

“A Uniform Solicitorial Retirement Act of 1974.

“§ 135-70.1. *Short title and purpose.*—(a) This Article shall be known and may be cited as the ‘Uniform Solicitorial Retirement Act of 1974’.

(b) The purpose of this Article is to improve the administration of justice by attracting the most highly qualified talent available within the State to the position of District Attorney and Solicitor.

“§ 135-70.2. *Scope.*—(a) This Article provides uniform retirement benefits for all solicitors and district attorneys of the General Court of Justice who are so serving on the effective date of this act, or who become such thereafter.

(b) The Board of Trustees of the Teachers’ and the State Employees’ Retirement System shall administer the provisions of this Article. The benefits and entitlements that solicitors and district attorneys and their widows shall have shall be the same benefits and entitlements as are provided a judge of the district court division of the General Court of Justice pursuant to Article 4 of Chapter 135 of the General Statutes.

**Sec. 2.** There is hereby appropriated from the General Fund of the State of North Carolina for fiscal year 1974-75 the sum of fifty thousand dollars (\$50,000) to the Treasurer’s Department for purposes of implementation of this act.

**Sec. 3.** This act shall become effective retroactive to January 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1089

**CHAPTER 1236**

AN ACT TO AMEND G.S. 7A-172 TO RAISE THE AUTHORIZED MAXIMUM SALARY FOR MAGISTRATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-172, as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is amended by deleting from line three thereof the words and figures “eight thousand seven hundred and sixty dollars (\$8,760)” and inserting in lieu thereof the words and figures “ten thousand seventy-four dollars (\$10,074)”.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1168

**CHAPTER 1237**

AN ACT TO PROVIDE FUNDS FOR RESEARCH STUDIES ON SOYBEAN PHYSIOLOGY AND MANAGEMENT, AND RESEARCH STUDIES AND EXTENSION EDUCATION ON SOYBEAN DISEASES AND NEMATODES.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the general fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Experiment Station (North Carolina Budget Code 28041) the sum of eighty-five thousand dollars (\$85,000) and to the North Carolina Agricultural Extension Service (North Carolina Budget Code 28061) the sum of twenty-five thousand dollars (\$25,000) for the fiscal year beginning July 1, 1974 and ending June 30, 1975, with these sums to become a part of the continuing or “Base Budget” of these two State agencies for the general purposes set forth in this act and according to the following schedule:

North Carolina Agricultural Experiment Station  
(Budget Code 28041)

A. Soybean Physiology and Management	\$60,000
B. Soybean Disease and Nematode Control	25,000

North Carolina Agricultural Extension Service  
(Budget Code 28061)

A. Soybean Disease and Nematode Control	\$25,000
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**Sec. 2.** The above named agencies shall handle and coordinate the administration and expenditure of all funds appropriated by this act and for the purposes herein designated shall account for and report to the fiscal and financial system of the agency to which the appropriation is made as herein set forth.

**Sec. 3.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 4.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1189

CHAPTER 1238

AN ACT TO PROVIDE FOR THE EMPLOYMENT OF AN AGRICULTURAL EXTENSION AREA LIVESTOCK SPECIALIST TO WORK IN THE NORTHWEST NORTH CAROLINA AREA.

Whereas, the counties of Alexander, Alleghany, Ashe, Caldwell, Davie, Forsyth, Stokes, Surry, Watauga, Wilkes and Yadkin in the northwest corner of our State are the oldest and largest beef cattle producing area of the State with a population of 50,250 head of beef cows and 65,350 yearling steers producing an annual income of over twelve million dollars (\$12,000,000) from beef alone plus a potential for expansion in the production of feeder and stocker cattle to several times the present volume; and

Whereas, over one half of the sheep in the entire State are presently located in these counties and this is one of the very few areas favorable for sheep expansion; and

Whereas, feeder pig production is a new and growing endeavor in these counties with great potential for expansion in the next 10 years; and

Whereas, a cooperative marketing program in the counties at the present time includes seven yearling steer sales, representing one half of the State's total, two stocker cattle sales, four feeder calf sales, a wool pool and an experimental lamb marketing program and two feeder pig sales in adjacent counties; and

Whereas, the resources needed to supervise the expansion of the livestock in this area are in excess of resources presently available for these purposes to the North Carolina Agricultural Extension Service; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Extension Service at North Carolina State University the sum of twenty-seven thousand one hundred fifty-six dollars (\$27,156) for the fiscal year beginning July 1, 1974, and ending June 30, 1975, with this sum to become a part of the "Continuation" or "Base" Budget of this State agency for the general purposes set forth in the preamble of this act.

**Sec. 2.** The above-named agency shall handle and coordinate the administration and expenditure of all funds appropriated by this action and for the purposes herein designated shall be accounted for and reported to the fiscal and financial system of the agency to which the appropriation is made as herein set forth.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1197

## CHAPTER 1239

AN ACT TO PROVIDE MINIMUM SANITATION STANDARDS FOR PUBLIC SCHOOLS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Commission for Health Services shall approve minimum sanitation standards for schools, subject to adoption by the State Board of Education. The sanitation standards approved by the Commission for Health Services shall cover such matters as the cleanliness of floors, walls, ceilings, storage spaces, and other facilities; adequacy of lighting, ventilation, water supply, toilet and lavatory facilities, liquid and solid waste disposal; and such other items and facilities as are necessary in the interest of the public health. It shall be the duty of the Department of Human Resources and its officers, sanitarians or agents to visit and inspect schools at least annually to determine compliance with the sanitation standards approved by the Commission for Health Services and to submit written reports on such visits or inspections to the State Board of Education on forms approved by the Commission for Health Services and provided by the Department of Human Resources. If a local administrative unit does not comply with the minimum sanitation standards adopted by the State Board, the Board may, at its discretion, require that the school administrative unit remit any unexpended funds provided by the State for custodial services.

**Sec. 2.** It shall be the duty of each principal to make an inspection each month of buildings in his charge and file written reports with the superintendent of his administrative unit, reporting conditions as to cleanliness of floors, walls, ceilings, storage spaces, toilet and lavatory facilities; and such other items and facilities as are necessary in the interest of public health. Sample report blank forms shall be provided the principal upon his request by the Department of Human Resources. It shall be the duty of the principal to take immediate action to correct conditions conducive to uncleanliness of floors, walls, ceilings, storage spaces, toilet and lavatory facilities; and such other items and facilities as are necessary in the interest of public health.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1247

## CHAPTER 1240

AN ACT TO CREATE A PROGRAM TO IMPROVE PERINATAL HEALTH CARE IN THIS STATE AND TO PROVIDE FUNDS TO IMPROVE THE FACILITIES AND SERVICES RELATED TO PRENATAL CARE DELIVERY AND NEWBORN CARE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143 of the General Statutes is amended by adding a new section to be entitled "Perinatal Health Care" and to read as follows:

"Perinatal Health Care.

"Section 1. Purpose. Based upon the report of the Task Force on Maternal-Infant Care of the Governor's Advisory Council on Comprehensive Health Planning, the General Assembly finds and recognizes the following problems related to maternal and infant health care in North Carolina: Perinatal

mortality and morbidity rates are excessively high; low socio-economic status contributes significantly to perinatal mortality and morbidity; existing perinatal health services are inconsistently planned, organized and delivered; many perinatal health facilities are too small, inefficient and underutilized; perinatal education is inadequate; no guidelines exist for assessing perinatal care services; financial support for perinatal services for medically indigent mothers is insufficient; and health insurance maternity coverage is restrictive. The General Assembly finds that these problems can be alleviated by a program of regionalized perinatal care which is to include hospital certification, coordination of other pertinent health care resources, and funding. For purposes of this program the perinatal period is defined as beginning with conception and extending through the first 28 days of life.

“Sec. 2. Establishment of program. The Secretary of the Department of Human Resources is authorized and directed to establish a perinatal health care program with the following components as outlined in the report of the Task Force on Maternal-Infant Care:

(a) Community perinatal health care services, including health education for pregnant girls of school age, increased prenatal care, identification of high risk pregnancies, and increased interconceptional care.

(b) Hospital perinatal health care, including a voluntary certification system for hospitals providing for graduated levels of complexity: level I hospitals to provide normal obstetric and neonatal care, level II hospitals to provide the more complicated obstetric and neonatal care, and level III hospitals to provide care for the most complicated maternal and neonatal problems.

(c) Regionalized perinatal health care services, including a plan for effective communication, consultation, referral and transportation links among hospitals, health departments, physicians, schools and other relevant community resources for mothers and infants at high risk for preventable mortality and morbidity.

“Sec. 3. Powers and duties of Secretary. The Secretary is authorized to establish procedures and guidelines for the development, implementation and evaluation of this program. He may make contracts with hospitals, local health departments, and other public or private and governmental or non-governmental agencies and organizations to develop, implement and evaluate this program, including for the purposes of renovating and equipping hospitals and other health care facilities, salaries for health care professionals at such hospitals and facilities and for patient care reimbursement. He shall request the appropriate areawide health planning agencies for review and comments on any proposed contract involving purchase of perinatal health services in an area.

“Sec. 4. Statewide Advisory Council. The Secretary shall appoint a Perinatal Health Program Advisory Council composed of 10 members with representation as follows: obstetrics, pediatrics, public health, nursing, social services, hospital administration and consumers. The Council shall advise the Secretary in the planning, organization, administration and evaluation of the program. The Council shall annually elect a chairman from among its members and shall meet quarterly or upon the call of the Secretary.

“Sec. 5. Coordination of existing programs. All State agencies concerned with maternal and child health shall cooperate with this program and the Secretary shall coordinate funding and administration in the Department consistent with the objectives of this and other programs.”

**Sec. 2.** There is hereby appropriated from the General Fund the following sums to the Department of Human Resources for the fiscal year 1974-75 to establish a Perinatal Health Care Program consisting of grants-in-aid, medical assistance, contractual services, and administration as follows:

\$231,280	Grants-in-aid to hospitals for mechanical and electrical renovation and equipment purchases for the purpose of meeting hospital perinatal health care certification standards, such grants to be on a State/local matching basis of not more than four to one and not to exceed ninety-five thousand dollars (\$95,000) for any hospital grantee; and
198,720	grants-in-aid to certified hospitals for support of salaries for health care personnel who are employed in providing perinatal health care services, not to exceed forty thousand dollars (\$40,000) for any hospital grantee.
30,000	Funds for medical assistance for perinatal care to persons whose care is not covered by commercial, governmental, or other health insurance and whose income or resources are inadequate to pay for that care. Eligibility shall be determined by standards established by the Department of Human Resources.
40,000	Contractual services for program development and evaluation, such contracts to be let under rules and regulations of the Department of Administration.
_____	Administrative expenses for program implementation in Department of Human Resources.
\$500,000	Total

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1250 CHAPTER 1241**

**AN ACT TO AMEND G.S. 127-30.1 RELATING TO NATIONAL GUARD PENSIONS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127-30.1(a), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended on line one by inserting after the word "member" and before the word "of" the words "and former member".

**Sec. 2.** G.S. 127-30.1, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by inserting a

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period after the word "Guard" on line two of subdivision (2) and by striking the remainder thereof.

**Sec. 3.** G.S. 127-30.1(g), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting all of subsection (g) and substituting in lieu thereof the following:

"(g) The provisions of this section shall apply to any member or former member of the North Carolina National Guard who is qualified by the above requirements with eligibility of such person commencing at age 60 or July 1, 1974, whichever is the later date."

**Sec. 4.** There is hereby appropriated from the General Fund one hundred and twenty-one thousand dollars (\$121,000) to the Department of Military and Veterans Affairs in 1974-75 for the purposes of this act.

**Sec. 5.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1283 CHAPTER 1242

AN ACT TO APPROPRIATE FUNDS TO THE CRIME STUDY COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State of North Carolina the sum of twenty thousand dollars (\$20,000) to the Department of Administration for the Crime Study Commission for the 1974-75 fiscal year for the purpose of paying reasonable expenses of the Commission and its staff.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1293 CHAPTER 1243

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS WITH RESPECT TO A WHOLLY SELF-LIQUIDATING PROJECT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose of this act is to amend Chapter 523 of the 1973 Session Laws of North Carolina with respect to a 250 student wholly self-liquidating dormitory for Winston-Salem State University, by increasing the allowance from five thousand dollars (\$5,000) per student to an amount not to exceed seven thousand dollars (\$7,000) per student occupant.

**Sec. 2.** Section 4 of said Chapter 523 of the 1973 Session Laws under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

Winston-Salem State University	
5. 250 Student Dormitory	\$1,556,000
Fixed Equipment	134,000
Movable Equipment	<u>60,000</u>
Subtotal	1,750,000
Less Self-Liquidating	<u>1,750,000</u>

**Sec. 3.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1294                      CHAPTER 1244**

**AN ACT TO AMEND CHAPTER 693 OF THE 1971 SESSION LAWS WITH RESPECT TO A WHOLLY SELF-LIQUIDATING PROJECT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose of this act is to amend Chapter 693 of the 1971 Session Laws of North Carolina as amended with respect to a 450 student wholly self-liquidating dormitory for Fayetteville State University, by increasing the allowance from five thousand dollars (\$5,000) per student to an amount not to exceed seven thousand dollars (\$7,000) per student occupant.

**Sec. 2.** Section 4 of said Chapter 693 of the 1971 Session Laws as amended under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

Fayetteville State University		
8. Dormitory for 450 Students	\$2,912,000	
Movable Equipment	<u>238,000</u>	
Subtotal	3,150,000	
Less Self-Liquidating	<u>3,150,000</u>	-0-

**Sec. 3.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1295                      CHAPTER 1245**

**AN ACT TO AMEND CHAPTER 755 OF THE 1969 SESSION LAWS WITH RESPECT TO A WHOLLY SELF-LIQUIDATING PROJECT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose of this act is to amend Chapter 755 of the 1969 Session Laws of North Carolina as amended with respect to a 200 student wholly self-liquidating dormitory for the University of North Carolina at Wilmington, by increasing the allowance from five thousand dollars (\$5,000) per student to an amount not to exceed seven thousand dollars (\$7,000) per student occupant.

**Sec. 2.** Section 4 of said Chapter 755 of the 1969 Session Laws as amended under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

University of North Carolina at Wilmington		
7. One 200-Student Dormitory		
Building	\$1,316,000	
Movable Equipment	<u>84,000</u>	
Subtotal	1,400,000	
Less Self-Liquidating	<u>1,400,000</u>	-0-

**Sec. 3.** This act shall be in full force and effect from and after its ratification.



S. B. 1298 CHAPTER 1248

AN ACT AMENDING CHAPTER 907 OF THE 1971 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A SELF-LIQUIDATING ADDITION TO THE STUDENT CENTER AT THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 907 of the 1971 Session Laws is amended by deleting:

"5. Addition to Student Center		
Building	\$1,730,000	
Fixed Equipment	90,000	
Movable Equipment	<u>130,000</u>	
Total	1,950,000	
Less Self-Liquidating	<u>1,950,000</u>	-0."

and substituting the following:

"5. Addition to Student Center		
Building	\$2,060,000	
Fixed Equipment	100,000	
Movable Equipment	<u>140,000</u>	
Total	2,300,000	
Less Self-Liquidating	<u>2,300,000</u>	-0."

**Sec. 2.** This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1309 CHAPTER 1249

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF SOCIAL STUDIES FOR DEVELOPMENT OF AN ELEMENTARY SCHOOL LAW EDUCATION PROJECT IN THE PUBLIC SCHOOLS.

Whereas, a pilot project in the public schools entitled Elementary School Law Education Project has been created and is designed to provide special instructional materials and teacher training workshops for a minimum of 160 elementary schoolteachers to emphasize and strengthen law-focused education in the elementary school curriculum; and

Whereas, the Division of Social Studies of the Department of Public Instruction requires sixty thousand dollars (\$60,000) in operating funds for the pilot project; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Division of Social Studies of the Department of Public Instruction the sum of sixty thousand dollars (\$60,000) for the purpose of funding a pilot project in the schools entitled Elementary School Law Education Project.

**Sec. 2.** These funds shall be made available as of July 1, 1974, provided Federal funds presently anticipated are not received by that date. Upon receipt of Federal funds prior to July 1, 1974, the provisions of this bill shall become null and void. Funds appropriated pursuant to this act shall under no circumstances be expended for any purpose other than as herein set forth.

**Sec. 3.** This act shall become effective July 1, 1974.

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In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1346 CHAPTER 1250

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS TO PROVIDE CHANGE ONLY WITH RESPECT TO A WHOLLY SELF-LIQUIDATING CAPITAL IMPROVEMENT PROJECT AT EAST CAROLINA UNIVERSITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose of this act is to amend Chapter 523 of the 1973 Session Laws, with respect to the lighting of Ficklen Stadium at East Carolina University, by increasing the authorization of this wholly self-liquidating project from three hundred thousand dollars (\$300,000) to an amount not to exceed four hundred seventy-five thousand dollars (\$475,000).

**Sec. 2.** Section 4 of said Chapter 523 of the 1973 Session Laws, under the institutional subheading as indicated and affecting only the project as listed in this act, is amended to read as follows:

East Carolina University

1. Ficklen Stadium

Lighting 475,000

Less Self-Liquidating 475,000 -0-

**Sec. 3.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1469 CHAPTER 1251

AN ACT TO AMEND CHAPTER 722 OF THE 1971 SESSION LAWS WITH RESPECT TO A PARTIALLY SELF-LIQUIDATING PROJECT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The purpose of this act is to amend Chapter 722 of the 1971 Session Laws of North Carolina with respect to a Physical and Health Education Building for North Carolina Agricultural and Technical State University, by increasing the authorization in an amount not to exceed four hundred thousand dollars (\$400,000) on a self-liquidating basis.

**Sec. 2.** Section 2 of said Chapter 722 of the 1971 Session Laws under the institutional subheading as indicated and affecting only the project as listed in this act is amended to read as follows:

North Carolina Agricultural and Technical State University

Physical and Health Education Building \$3,525,000

Fixed Equipment 75,000

Movable Equipment 200,000

Subtotal 3,800,000

Less Self-Liquidating 400,000

Total \$3,400,000

**Sec. 3.** This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 988                      CHAPTER 1252**

**AN ACT TO AMEND G.S. 105-282.1 TO SIMPLIFY THE PROCEDURE FOR FILING APPLICATIONS FOR EXEMPTION FROM PROPERTY TAXES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-282.1 is hereby rewritten to read as follows:

“§ 105-282.1. *Applications for property tax exemption or exclusion.*—(a) Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. Except as otherwise provided below, every owner claiming exemption or exclusion hereunder shall annually, during the regular listing period, file an application therefor with the tax supervisor of the county in which the property would be subject to taxes if taxable. For the year 1974, the application may be filed not later than May 31, 1974. If the property covered by the application is located within a municipality, that fact shall be shown on the application. Each such application shall be submitted on a form approved by the Department of Revenue. The forms shall be made available by the tax supervisor.

- (1) The United States Government, the State of North Carolina and the counties and municipalities of the State are exempted from the requirement that owners file applications for exemption.
- (2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (13) and (15) or property exempted under G.S. 105-278.2 shall not be required to file applications for the exclusion of such property.
- (3) After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or exclusion under G.S. 105-275(3), (7) or (12) has applied for exemption and the exemption has been approved, such owner shall not be required to file applications in subsequent years except in the following circumstances:
  - a. new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or
  - b. there is a change in the use of the property necessitating a review of the exemption.
- (4) Nothing in this section shall be construed to relieve any governmental unit or private owner of the duty of listing for taxation property that is not entitled to exemption.

(b) Applications for exemption or exclusion that are approved by the tax supervisor shall be filed in his office and shall be made available to authorized representatives of any municipality within the county. If an application for exemption or exclusion is denied by the tax supervisor, he shall notify the owner of his decision in time for him to appeal to the board of equalization and review and from the county board to the Property Tax Commission as provided in G.S. 105-322 and 105-324. If the notice of denial covers property located within a

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municipality, the tax supervisor shall send a copy of the notice and a copy of the application to the governing body of the municipality. The municipal governing body shall then advise the owner whether it will adopt the decision of the county board or require the owner to file a separate appeal with the municipal governing body. In the event the owner is required to appeal to the municipal governing body and that body renders an adverse decision, the owner may appeal to the Property Tax Commission as provided in G.S. 105-324. Nothing in this section shall prevent the governing body of a municipality from denying an application which has been approved by the tax supervisor or by the county board provided the owner's rights to notice and hearing are not abridged. Applications handled separately by a municipality shall be filed in the office of the person designated by the governing body, or in the absence of such designation, in the office of the chief fiscal officer of the municipality.

(c) When an owner of property who is required to file an application for exemption or exclusion fails to do so, the tax supervisor shall proceed to discover the property as provided in G.S. 105-312. If upon appeal to the county board of equalization and review or board of commissioners, the owner demonstrates that the property meets the conditions for exemption, the exemption may be approved by the board at that time. Discovery of the property by the county shall automatically constitute a discovery by any other taxing unit in which the property also has a taxable situs.

(d) The county tax supervisor shall prepare and maintain a roster of all property in the county that is granted tax relief through classification or exemption. As to affected real and personal property, the roster shall set forth:

- (1) The name of the owner of the property.
- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.
- (5) The total value of exempt property in the county and in each municipality therein.

(e) A duplicate copy of the roster shall be forwarded to the Department of Revenue on or before November 1, 1974. In subsequent years, on or before November 1, a report shall be filed with the Department of Revenue showing all changes since the last report."

**Sec. 2.** This act shall become effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

## S. B. 1104

## CHAPTER 1253

### AN ACT TO ESTABLISH AN ENERGY DIVISION IN THE DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created in the Department of Military and Veterans' Affairs a division to be known as the Energy Division.

**Sec. 2.** The division shall be organized initially to include an Allocations Section and a Research and Conservation Section. The Secretary of Military and Veterans' Affairs, with the approval of the Governor, may establish additional sections.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1158                      CHAPTER 1254**

**AN ACT AMENDING G.S. 143A-181 RELATING TO CREDIT UNION COMMISSION APPOINTMENTS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143A-181(a) is amended by striking the word "Three" at the beginning of the sixth sentence therein and substituting in lieu thereof the word "Four".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1160                      CHAPTER 1255**

**AN ACT AMENDING ARTICLE 9 OF CHAPTER 54 OF THE GENERAL STATUTES RELATING TO CREDIT UNIONS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 54-86(9) is amended by rewriting the second sentence thereof to read as follows:

"A credit union shall keep on deposit at interest in any such depositories as are enumerated in subdivisions 2, 4, 5, and 10 of this section, so much of the reserve fund and capital stock as shall equal five percent (5%) of the total shares and deposits."

**Sec. 2.** G.S. 54-110(b) is amended by adding at the beginning of the first sentence thereof the words:

"Except as provided elsewhere in this section."

**Sec. 3.** G.S. 54-110 is further amended by adding a new subsection (i) and a new subsection (j) to read as follows:

"(i) G.S. 54-86(6) shall not apply to a central association, and such association shall have the power to invest in loans to other credit unions in such amounts as approved by its loan officer and/or credit committee."

"(j) The board of directors shall meet at least quarterly and shall have the general direction and control of the affairs of the corporation."

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1194

**CHAPTER 1256**

**AN ACT TO REQUIRE PARENTAL SIGNATURES ON REPORT CARDS  
IN THE GASTON COUNTY SCHOOL SYSTEM.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Upon resolution of the Gaston County Board of Commissioners, all schools in the Gaston County School System are hereby required to furnish a report card for each student at least once during every nine weeks during the school term. The report card is to clearly define the academic or scholastic status or rating that the student has attained in each subject the student has been assigned during the period. The manner of grading, numerical, alphabetical or coded, may be provided by the Board of Education as it deems proper to sufficiently indicate to a parent which subjects the student is passing or failing. The report card is to be issued to each student and further must be signed by either parent and then returned by the student.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1332

**CHAPTER 1257**

**AN ACT TO AUTHORIZE AND EMPOWER THE COUNTY OF HALIFAX  
TO USE COUNTY FUNDS TO CONSTRUCT A WATER LINE WITHIN  
THE CORPORATE LIMITS OF THE TOWN OF HALIFAX TO ENABLE  
THE DEVELOPMENT OF HISTORIC PROPERTIES IN SAID TOWN.**

Whereas, the Colonial Town of Halifax is an important historic site; and

Whereas, the 1965 Session of the General Assembly of North Carolina established "Historic Halifax State Historic Site" in and adjacent to said Town and appropriated monies to be used for the acquisition and development of historic sites there; and

Whereas, the Department of Archives and History has found it necessary to acquire certain properties for the proper development of the historic sites and to require the persons residing on the properties to vacate the said premises; and

Whereas, the new locations to which these persons will move are not served by the Town Water System and in order to acquire the historic properties and require the people living thereon to move to the new locations, a water line completely located within said Town serving said new locations must be installed; and

Whereas, the Town of Halifax does not have sufficient funds to install said water line and has requested that Halifax County install the line at its expense; and

Whereas, the installation of said water line would enable the further development of Historic Halifax and in doing so would be beneficial to all of the citizens of Halifax County, and for this reason the Board of Commissioners for Halifax County is willing to expend the funds for installing said water line, which funds are available; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The County of Halifax is hereby authorized and empowered to appropriate and expend County funds for the installation and construction of a water line totally within the boundaries of the Town of Halifax to serve new

locations to be occupied by persons vacating historic sites being acquired by the State of North Carolina for the development of Historic Halifax.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

**S. B. 1461                      CHAPTER 1258**

**AN ACT DEALING WITH THE BOARD OF EDUCATION OF THE ELKIN CITY SCHOOL ADMINISTRATIVE UNIT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 3 of Chapter 284 of the 1973 Session Laws is hereby rewritten to read as follows:

“(a) The members of the Board of Education shall be elected on a nonpartisan plurality basis in even-numbered years on the same day that regular general elections are held. Candidates for the Board shall file for office on or before the fourteenth Monday preceding the date on which the general election shall be held and shall pay a filing fee of five dollars (\$5.00). The first election under this act shall be held in November of 1974 at which time all members of the Board shall be elected. Of the three at-large members elected in 1974 from inside the corporate limits of the City of Elkin, the two receiving the highest number of votes shall serve a four-year term and the person receiving the next highest number of votes shall serve a two-year term. The person elected in 1974 from the area within the Elkin School District to the west of Interstate 77 and outside the corporate limits of the City of Elkin shall serve for a four-year term. The person elected in 1974 from the area within the Elkin School District to the east of Interstate 77 and outside the corporate limits of the City of Elkin shall serve a two-year term. Thereafter as the terms expire, successors shall be elected for terms of four years. Those persons who shall be elected to the Board must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. Those persons appointed to the Board to fill a vacancy shall qualify within thirty days of notification. At the first meeting of the Board following the taking the oath of office by Board members, a Chairman shall be chosen by and from the membership of the Board. Any vacancy occurring in the membership of the Board for any reason shall be filled by a majority vote of the remaining members of the Board within thirty days after such vacancy occurs.”

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1473 CHAPTER 1259

AN ACT TO AUTHORIZE A BEER AND WINE ELECTION IN THE TOWN OF CALABASH.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Brunswick County Board of Elections is hereby authorized and directed to hold a special election in the Town of Calabash to determine whether beer and unfortified wine shall be sold in the Town. The election shall be held on July 10, 1974, and may be held at the same time as an election to determine whether alcoholic control stores shall be established in the Town.

**Sec. 2.** The form of the ballot shall be as follows:

FOR "on-premises" sale of unfortified wine by

Grade A hotels and restaurants only and

"off-premises" sales by other licensees.

AGAINST "on-premises" sale of unfortified wine

by Grade A hotels and restaurants

only and "off-premises" sales by

other licensees.

FOR "on-premises" sales of malt beverages by

Grade A hotels and restaurants only and

"off-premises" sales by other licensees.

AGAINST "on-premises" sales of malt beverages

by Grade A hotels and restaurants

only and "off-premises" sales by

other licensees.

**Sec. 3.** If a majority of the votes cast in the election be in favor of the question or questions, then it shall be legal to sell such beverages in accordance with the applicable law.

**Sec. 4.** The election shall be held and conducted as provided in G.S. 18A-52 (f), and no other election on the sale of beer or wine shall be held within three years of an election held pursuant to this act. G.S. 18A-53 shall be applicable to any election held under this act. Except as provided herein, the provisions of G.S. 18A-52 shall not be applicable to the July 10, 1974, election.

**Sec. 5.** Any election held under this act subsequent to the July 10, 1974, election shall be called and held as provided in G.S. 18A-52 and G.S. 18A-53.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1477

**CHAPTER 1260**

AN ACT RELATING TO THE TERMS OF OFFICE OF THE MEMBERS OF THE GOLDSBORO CITY BOARD OF EDUCATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Goldsboro City Board of Education shall consist of nine members who shall serve for terms of four years and until their successors are elected and qualified. The term of office of each member shall begin on the 1st day of July, next succeeding his election, and shall continue until a successor has been elected and qualified.

**Sec. 2.** The members of the Goldsboro City Board of Education shall be elected by the Wayne County Board of Education. As the terms of office of the members of the Goldsboro City Board of Education now serving expire, their successors shall be elected for terms of four years and until their successors are elected and qualified. In the event of a vacancy prior to the end of a four-year term, the Wayne County Board of Education shall elect a person to fill the vacancy and to serve for the unexpired term.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

S. B. 1478

**CHAPTER 1261**

AN ACT TO PROVIDE A SUPPLEMENTAL RETIREMENT FUND FOR FIREMEN IN THE CITY OF LENOIR AND TO MODIFY THE APPLICATION OF G.S. 118-5, 118-6 and 118-7 TO THE CITY OF LENOIR.

*The General Assembly of North Carolina enacts:*

**Section 1. Supplemental retirement fund created.** The Board of Trustees of the Local Firemen's Relief Fund of the City of Lenoir, as established in accordance with G.S. 118-6, hereinafter called the Board of Trustees, shall create and maintain a separate fund to be called the Lenoir Paid Firemen's Supplemental Retirement Fund, hereinafter called the Supplemental Retirement Fund, and shall maintain books of account for such Fund separate from the books of account of the Firemen's Local Relief Fund of the City of Lenoir hereinafter called the Local Relief Fund. The Board of Trustees shall pay into the Supplemental Retirement Fund the funds prescribed by this Act.

**Sec. 2. Transfer of Funds and Disbursements.** Notwithstanding the provisions of G.S. 118-7, the Board of Trustees of the Local Firemen's Relief Fund of the City of Lenoir shall:

(a) prior to July 1, 1974, transfer to the Supplemental Retirement Fund all funds, including earnings on investments, of the Local Relief Fund in excess of seventy-five thousand dollars (\$75,000);

(b) at any time when the amount of funds in the Local Relief Fund shall by reason of disbursements authorized by G.S. 118-7, be less than seventy-five thousand dollars (\$75,000) transfer from the Supplemental Retirement Fund to the Local Relief Fund an amount sufficient to maintain in the Local Relief Fund the sum of seventy-five thousand dollars (\$75,000);

(c) as soon as practicable after July 1 of each year divide the sum of the annual funds paid to the Local Relief Fund by authority of G.S. 118-5, the

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income earned in the preceding fiscal year upon investments of funds belonging to the Local Relief Fund and the income earned in the preceding fiscal year upon investments of funds belonging to the Supplemental Retirement Fund into equal amounts and disburse the same as Supplemental Retirement Benefits in accordance with Section 3 of this act. Provided, however, in the event the total amount of these funds in any fiscal year exceeds the total of the benefit limits of seven hundred twenty dollars (\$720.00) per annum per eligible person, as set forth in Section 3 of this act, such excess amount shall become a part of the Supplemental Retirement Fund.

**Sec. 3. Supplemental Retirement Benefits.** (a) Each fully-paid active City fireman who retires after July 1, 1974, with 20 years or more service and has attained the age of 60 shall be entitled to and shall receive in each fiscal year following the fiscal year in which he retires an annual supplemental retirement benefit, provided, in no event shall any retired fireman be entitled to or receive in any year an annual benefit in excess of seven hundred twenty dollars (\$720.00).

(b) Any fireman of the City who is not otherwise entitled to supplemental retirement benefits under subsection (a) of this section shall nevertheless be entitled to such benefits in any fiscal year in which the Board of Trustees makes the following written findings of fact:

(1) That he initially retired from his position as fireman because of his inability, by reason of sickness or injury, to perform the normal duties of an active fireman; and

(2) That, within 30 days prior to or following his initial retirement as a fireman, at least two physicians licensed to practice medicine in North Carolina certified that he was at such time unable, by reason of sickness or injury, to perform the normal duties of an active firemen; and

(3) That, at the time of his initial retirement as a fireman, there was not available to him in the fire department or in any other department of the City a position of employment the normal duties of which he was capable of performing.

**Sec. 4. Intention.** It is the intention of Section 3 of this act to authorize the disbursement as supplemental retirement benefits only of the income derived in any fiscal year from funds received from Section 2, part (c). It is the intention of Section 2 of this act to require that the funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (c) thereof shall be held in trust, and that no funds paid into the Supplemental Retirement Fund pursuant to subsections (a) and (c) thereof or as a gift, grant, bequest, or donation to such Fund shall ever be disbursed except as and when required by (b).

**Sec. 5. Investment of Funds.** The Board of Trustees is hereby authorized to invest any funds, either of the Local Relief Fund or of the Supplemental Retirement Fund, in any investment named in or authorized by G.S. 159-28.1, only in accordance with the provisions thereof, and is hereby directed to invest all of the funds of the Supplemental Retirement Fund in one or more of such investments.

**Sec. 6. Acceptance of gifts.** The Board of Trustees is hereby authorized to accept any gift, grant, bequest, or donation of money for the use of the Supplemental Retirement Fund.

**Sec. 7. *Bond of treasurer.*** The Board of Trustees shall bond the Treasurer of the Local Relief Fund with a good and sufficient bond, in an amount at least equal to the amount of funds in his control, payable to the Board of Trustees, and conditioned upon the faithful performance of his duties; such bond shall be in lieu of the bond required by G.S. 118-6. The Board of Trustees shall pay from the Local Relief Fund the premiums of the bond of the Treasurer.

**Sec. 8.** If any provision of this act shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

**Sec. 9.** This act shall be effective upon its ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

H. B. 1129 CHAPTER 1262

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF STATE GOVERNMENT #4.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby re-created and reconstituted the following principal State departments to be known as the Department of Correction and the Department of Natural and Economic Resources with the organization, powers and duties as hereinafter defined and as further defined in the Executive Organization Act of 1973.

DEPARTMENT OF CORRECTION

**Sec. 2. *Department of Correction; creation.***—There is hereby created and established a department to be known as the Department of Correction with the organization, powers, and duties hereafter defined in the Executive Organization Act of 1973.

**Sec. 3. *Duties of the Department.***—It shall be the duty of the Department to provide the necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and juvenile delinquents and thereby to reduce the rate and cost of crime and delinquency.

**Sec. 4. *Functions of the Department of Correction.***—(a) The functions of the Department of Correction shall comprise except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina all functions of the executive branch of the State in relation to corrections and the rehabilitation of adult offenders and juvenile delinquents including detention, parole, and after-care supervision, and further including those prescribed powers, duties, and functions enumerated in Article 14 of Chapter 143A of the General Statutes and other laws of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in the Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of Chapter 143A of the General Statutes and Laws of this State are hereby transferred to and vested in the Department of Correction except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of: (1) the State Department of Correction and Commission of Correction, (2) the State Board of Youth Development, (3) the State Probation Commission, (4) the

State Board of Paroles, (5) the Interstate Agreement on Detainers, and (6) the Uniform Act for Out-of-State Parolee Supervision.

**Sec. 5. *Head of the Department.***—The Secretary of Correction shall be the head of the Department.

**Sec. 6. *Organization of the Department.***—The Department of Correction shall be organized initially to include the Parole Commission, the Board of Correction, the Division of Prisons, the Division of Youth Development, the Division of Adult Probation and Parole, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

**Sec. 7. *The Board of Correction.***—The Board of Correction shall consider and advise the Secretary of Correction upon any matter that the Secretary may refer to it. The Board shall assist the Secretary of Correction in the development of major programs and recommend priorities for the programs within the Department.

The Board of Correction shall have such other responsibilities and shall perform such other duties as may be specifically given to it by the Secretary of Correction.

The Board of Correction shall consist of nine members appointed by the Governor to serve at his pleasure. One member shall be a psychiatrist or a psychologist, one an attorney with experience in the criminal courts, one a judge in the General Court of Justice, five members appointed at large, and the Secretary of Correction who shall be a member and chairman *ex officio*. The initial composition of the Board of Correction shall include the Chairman of the present State Probation Commission, the Chairman of the present State Commission of Correction, and the Chairman of the present State Board of Youth Development.

Members of the Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

The Board of Correction shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of its chairman.

A majority of the Board shall constitute a quorum for the transaction of business.

All clerical and other services required by the Board shall be supplied by the Secretary of Correction.

**Sec. 8. *Parole Commission; creation, powers, and duties.***—(a) There is hereby created a Parole Commission of the Department of Correction with the authority to grant paroles, including both regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State in any prison, jail, or penal institution of this State or its political subdivisions as provided in Chapter 148 of the General Statutes and Laws of the State of North Carolina. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency.

(b) All releasing authority previously resting in the Commissioner and Commission of Correction with the exception of authority for extension of the limits of the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to the Parole Commission. Specifically, such releasing authority

includes work release (G.S. 148-33.1), indeterminate sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release, indeterminate sentence release, and release of youthful offenders shall have been recommended for release by the Secretary of Correction or his designee.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the Parole Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Correction.

**Sec. 9. Parole Commission; members, selection, quorum, compensation.**—The Parole Commission shall consist of five full-time members, all of whom shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The term of office of the members of the Commission shall be for four years and until their successors are appointed and qualify, the terms of the members shall expire on June 30 with one member's term expiring on June 30 of the first year of a Governor's term, two members' terms expiring on June 30 of the second year of a Governor's term, one member's term expiring on June 30 of the third year of a Governor's term, and one member's term expiring on June 30 of the fourth year of a Governor's term. The terms of the three members presently serving on the Board of Paroles will expire on June 30, 1974, June 30, 1975, and June 30, 1977, respectively. Thereafter, the terms of individuals filling these positions will be for four years. The two additional members increasing the size of the Commission to five as provided for by this statute, shall be appointed for terms expiring on June 30, 1976, and June 30, 1978, respectively; and thereafter at the end of the respective terms of office of the two new members, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term only.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Commission to serve as chairman at the pleasure of the Governor.

The members of the Commission shall receive pay and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Correction.

**Sec. 10. Department of Correction; conforming changes.**—(a)(1) Whenever the words "Commissioner of Correction," "Chairman of the Board of Paroles," "Director of Probation," and "Commissioner of Youth Development" or the words "Commissioner", "Chairman", or "Director" when referring to the above are used to appear in any statute or law of this State, the same shall be

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deleted and the words "Secretary of Correction", or "Secretary", as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words "Department of Correction," "Department of Youth Development," "State Board of Corrections and Training," "Department of Juvenile Correction," "Probation Commission," "Board of Youth Development," and "Corrections Commission" or the words "Department", "Board", or "Commission" when referring to the above are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Correction" or "Department", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "Board of Paroles" or "Board" when referring to the Board of Paroles are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Correction" or "Department", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973 except that in the following references the words "Board of Paroles" shall be deleted and the words "Parole Commission" shall be inserted in lieu thereof: G.S. 148-33.1(b), lines 1 and 6; G.S. 148-33.1(d), line 7; G.S. 148-45(b), line 5; G.S. 148-48, line 2; G.S. 148-49.1, line 10; G.S. 148-49.4, line 8; G.S. 148-49.5, line 11; G.S. 148-49.6, line 3; G.S. 148-49.8(a), line 4; G.S. 148-49.8(c), lines 1, 3, and 6; G.S. 148-49.9(a), line 7; G.S. 148-49.9(b), lines 2, 4, 9, and 10; G.S. 148-52.1, first reference to "Board" on line 7; G.S. 148-53, lines 6 and 7; G.S. 148-54, line 13; G.S. 148-56, lines 1 and 3; G.S. 148-57, line 1; G.S. 148-58.1(a), line 3; G.S. 148-58.1(b), line 1; G.S. 148-59, line 3; G.S. 148-60.1, line 5; G.S. 148-61.1(a), line 1; G.S. 148-61.1(b), lines 1, 6, 7, 8, and 9; G.S. 148-62, lines 4, 5, 8, and 12; G.S. 148-64, line 4; G.S. 148-74, lines 2 and 7; and G.S. 148-84, lines 3 and 8.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) G.S. 148-33.1(d) is hereby amended by deleting from line 1 thereof the words "State Department of Corrections" and inserting in lieu thereof the words "Parole Commission".

(2) G.S. 148-42 is hereby amended by deleting from lines 9 and 10 thereof the words "Commissioner" and "Commissioner of Correction" and inserting in lieu thereof the words "Parole Commission".

(3) G.S. 148-42 is hereby amended by deleting the last sentence thereof.

(4) G.S. 148-52.1 is hereby amended by adding on line 1 thereof the words "of the Paroles Commission" immediately following the words "no member" and immediately before the words "or employee".

(5) G.S. 148-53 is hereby amended by deleting from line 6 thereof the words "direction of" and inserting in lieu thereof the words "rules and regulations duly adopted by".

(6) G.S. 148-54 is hereby amended by deleting from line 5 thereof the word "it" and inserting in lieu thereof the words "the Commission".

(7) G.S. 148-64 is hereby amended by deleting from line 2 thereof the words "and its officers and employees".

(8) G.S. 148-64 is hereby amended by deleting from line 5 thereof the words "and its staff".

(9) G.S. 148-74 is hereby amended by deleting from lines 11 and 12 thereof the words "Director of Probation, the Commissioner of Correction, and the Chairman of the Board of Paroles" and inserting in lieu thereof the words "the Secretary of Correction".

(10) The first paragraph of G.S. 15-203 is hereby deleted.

(11) G.S. 143B-2 is hereby amended by adding the following subsection: "5. Department of Correction".

(12) G.S. 143B-6 is hereby amended by adding the following subsection: "5. Department of Correction".

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 148-1; G.S. 148-52(a) through (d); G.S. 148-55; G.S. 134-1; G.S. 134-3; G.S. 134-4; G.S. 134-5; G.S. 134-6; G.S. 134-7; G.S. 134-8; G.S. 15-201; G.S. 15-202; and Article 14 of Chapter 143A of the General Statutes of the State of North Carolina, being Sections G.S. 143A-163 through G.S. 143A-170.

DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

**Sec. 11.** *Department of Natural and Economic Resources; creation.*—There is hereby re-created and reconstituted a department known as the Department of Natural and Economic Resources with the organization, powers, and duties defined in the Executive Organization Act of 1973.

**Sec. 12.** *Duties of the Department.*—It shall be the duty of the Department:

(1) To provide for management and protection of the State's natural resources and environment, and

(2) To promote and assist in the economic development statewide.

**Sec. 13.** *Functions of the Department of Natural and Economic Resources.*—(a) The functions of the Department of Natural and Economic Resources shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to economic development and the protection and management of natural resources and further including those prescribed powers, duties, and functions enumerated in Article 12 of Chapter 143A of the General Statutes of North Carolina.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 12 of Chapter 143A of the General Statutes of North Carolina are hereby transferred to and vested in the Department of Natural and Economic Resources, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, functions of (1) the Geodetic Survey Division, (2) the North Carolina Board of Science and Technology, (3) the North Carolina Forestry Advisory Committee, (4) the Mining Council, (5) the Commercial and Sports Fisheries Advisory Board, (6) the North Carolina National Park, Parkway, and Forests Development Commission, (7) the Department of Conservation and Development, (8) the Department of Water and Air Resources, (9) the Board of Water and Air Resources, (10) the Water Control Advisory Council, (11) the Air Control Advisory Council, (12) the John H. Kerr Reservoir Development Commission, (13) the Lockhart Gaddy Wild Goose Refuge Commission, (14) the State Soil and Water Conservation Committee, (15) the North Carolina Water Safety Committee, (16) the Department of Local Affairs, (17) the Board of Conservation and Development, (18) the Atlantic States Marine Fisheries

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Commission, (19) the Interstate Mining Compact, and (20) the Committee on Recreation and all other committees of the Department of Local Affairs, with the exception of the Committee on Law and Order.

**Sec. 14. *Head of the Department.***—The Secretary of Natural and Economic Resources shall be the head of the Department.

**Sec. 15. *Organization of the Department.***—The Department of Natural and Economic Resources shall be organized initially to include the Board of Natural and Economic Resources, the Wildlife Resources Commission, the Environmental Management Commission, the Marine Fisheries Commission, the North Carolina Mining Commission, the State Soil and Water Conservation Commission, the Sedimentation Control Commission, the Wastewater Treatment Plant Operators Commission of Certification, the Earth Resource Council, the Community and Economic Development Council, the Forestry Council, the Parks and Recreation Council, the North Carolina Zoological Park Council, the Water Safety Council, the Air Quality Council, the Water Quality Council, the North Carolina National Park, Parkway and Forests Development Council, the Commercial and Sports Fisheries Committee, the Science and Technology Committee, the Federal Reservoirs local committees, the North Carolina Trails Committee, the Division of Environmental Management, the Division of Commercial and Sports Fisheries, the Division of Earth Resources, the Division of Community and Economic Development, the Division of Forest Resources, and the Division of Parks and Recreation and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

**Sec. 16. *The Board of Natural and Economic Resources.***—The Board of Natural and Economic Resources shall consider and advise the Secretary of Natural and Economic Resources upon any matter that the Secretary may refer to it. The Board shall assist the Secretary of Natural and Economic Resources in the development of major programs and recommend priorities for programs within the Department.

The Board of Natural and Economic Resources shall perform such other duties as may be specifically given to it.

The Board of Natural and Economic Resources shall consist of the following twenty-five members. The chairman and one elected member from each of the following Commissions: the Wildlife Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission; the chairman and one elected member from each of the following Councils: the Earth Resources Council, the Community and Economic Development Council, the Forestry Council, and the Parks and Recreation Council; ten members-at-large appointed by the Governor to serve at his pleasure; and the Secretary of Natural and Economic Resources who shall be a member and chairman *ex officio*.

The Board of Natural and Economic Resources shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of its chairman.

A majority of the Board shall constitute a quorum for the transaction of business.

Members of the Board shall receive per diem and necessary travel expenses in accordance with the provisions of G.S. 138-5.

All clerical and other services required by the Board shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 17. *Wildlife Resources Commission; transfer.***—The Wildlife Resources Commission, as contained in Chapters 75A, 113 and 143 of the General Statutes and the laws of this State, is hereby transferred to the Department of Natural and Economic Resources. The Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Natural and Economic Resources and, other provisions of this Chapter notwithstanding, shall be subject to the direction and supervision of the Secretary only with respect to the management functions of coordinating and reporting. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the Wildlife Resources Commission shall be appointed by the Commission and the employees of the Commission shall be employed as now provided in G.S. 143-246 and the laws of this State.

Notwithstanding any provision of the Executive Organization Act of 1973 to the contrary, the Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Natural and Economic Resources to the end that the independence of the Wildlife Resources Commission be preserved, the Executive Organization Act of 1973 shall not be construed as amending or repealing the provisions of this section.

**Sec. 18. *Wildlife Resources Commission; conforming changes.***—(a)(1) Whenever the words “Commissioner of Game and Inland Fisheries” or the word “Commissioner,” when referring to the Commissioner of Game and Inland Fisheries as designated and defined in Article 7 of Chapter 113 of the General Statutes of the State of North Carolina are used or appear in any statute or law of this State, the same shall be deleted and the words “Executive Director of the North Carolina Wildlife Resources Commission” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words “Board of Conservation and Development” or “Board,” when referring to the Board of Conservation and Development, are used or appear in Articles 7, 8, 9, 10, 10A, 10B, and 11 of Chapter 113, the same shall be deleted and the words “Wildlife Resources Commission” or “Commission,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words “Department of Conservation and Development” or “Department,” when referring to the Department of Conservation and Development are used in Article 7 of Chapter 113, the same shall be deleted and the words “Wildlife Resources Commission” or “Commission,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words “Division of Game and Inland Fisheries” or the word “Division,” when referring to the Division of Game and Inland Fisheries are used or appear in Article 7 of Chapter 113, the same shall be deleted and the words “Wildlife Resources Commission” or “Commission,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(5) Whenever the words “Conservation Board” or “Board,” when referring to the Conservation Board are used or appear in Article 7 of Chapter 113, the same shall be deleted and the words “Wildlife Resources Commission” or

“Commission,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(6) Whenever the word “Commission” is used or appears in Articles 6B, 7, 8, 9, 10, 10A, 10B, 11, 12, 13, 20, 21, 22, 22A, and 23 of Chapter 113 of the General Statutes, the same shall be deleted and the words “Wildlife Resources Commission” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) G.S. 113-86 is hereby amended by deleting from line 2 thereof the word “Commissioner” and inserting in lieu thereof the words “Executive Director”.

(2) G.S. 113-83 is hereby amended by deleting the word “Commissioner” from line 5 and inserting in lieu thereof the words “Executive Director”.

(3) The word “Commission” is hereby deleted and the words “Wildlife Resources Commission” are hereby inserted in lieu thereof on line 2 of G.S. 113-138.

**Sec. 19. *Environmental Management Commission.***—There is hereby created the Environmental Management Commission of the Department of Natural and Economic Resources with the power and duty to promulgate rules and regulations to be followed in the protection, preservation, and enhancement of the water and air resources of the State.

(a) Within the limitations of G.S. 143-215.9 concerning industrial health and safety, the Environmental Management Commission shall have the following powers and duties:

(1) to grant a permit or temporary permit, to modify or revoke a permit, and to refuse to grant permits pursuant to G.S. 143-215.1 and G.S. 143-215.108 with regard to controlling sources of air and water pollution;

(2) to issue a special order pursuant to G.S. 143-215.2(b) and G.S. 143-215.110 to any person whom the Commission finds responsible for causing or contributing to any pollution of water within such watershed or pollution of the air within the area for which standards have been established;

(3) to conduct and direct that investigations be conducted pursuant to G.S. 143-215.3 and G.S. 143-215.108(b)(5);

(4) to conduct public hearings, institute actions in superior court, and agree upon or enter into settlements, all pursuant to G.S. 143-215.3;

(5) to direct the investigation of any killing of fish and wildlife pursuant to G.S. 143-215.3;

(6) to consult with any person proposing to construct, install, or acquire an air or water pollution source pursuant to G.S. 143-215.3 and G.S. 143-215.111;

(7) to encourage local government units to handle air pollution problems and to provide technical and consultative assistance pursuant to G.S. 143-215.3 and G.S. 143-215.112;

(8) to review and have general oversight and supervision over local air pollution control programs pursuant to G.S. 143-215.3 and G.S. 143-215.112;

(9) to declare an emergency when it finds a generalized dangerous condition of water or air pollution pursuant to G.S. 143-215.3;

(10) to render advice and assistance to local government regarding floodways pursuant to G.S. 143-215.56;

(11) to declare and delineate and modify capacity use areas pursuant to G.S. 143-215.13;

(12) to grant permits for water use within capacity use areas pursuant to G.S. 143-215.15;

(13) to direct that investigations be conducted when necessary to carry out duties regarding capacity use areas pursuant to G.S. 143-215.19;

(14) to approve, disapprove and approve subject to conditions all applications for dam construction pursuant to G.S. 143-215.28; to require construction progress reports pursuant to G.S. 143-215.29;

(15) to halt dam construction pursuant to G.S. 143-215.29;

(16) to grant final approval of dam construction work pursuant to G.S. 143-215.30;

(17) to have jurisdiction and supervision over the maintenance and operation of dams pursuant to G.S. 143-215.31;

(18) to direct the inspection of dams pursuant to G.S. 143-215.32;

(19) to modify or revoke any final action previously taken by the Commission pursuant to G.S. 143-214.1 and G.S. 143-215.107; and

(20) to have jurisdiction and supervision over oil pollution pursuant to Article 21A of Chapter 143.

(b) The Environmental Management Commission shall have the power and duty to establish standards and adopt rules and regulations:

(1) for air quality standards, emission control standards and classifications for air contaminant sources pursuant to G.S. 143-215.107;

(2) for water quality standards and classifications pursuant to G.S. 143-214.1 and G.S. 143-215;

(3) to implement water and air quality reporting pursuant to G.S. 143-215.68;

(4) to be applied in capacity use areas pursuant to G.S. 143-215.14;

(5) to implement the issuance of permits for water use within capacity use areas pursuant to G.S. 143-215.20;

(6) for the protection of sand dunes pursuant to Chapter 104B of the General Statutes of North Carolina; and

(7) for the protection of the land and the waters over which this State has jurisdiction from pollution by oil, oil products and oil by-products pursuant to Article 21A of Chapter 143.

(c) The Commission is authorized and empowered to make such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for water and air resources purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(d) The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Economic Resources.

**Sec. 20. *Environmental Management Commission; members, selection, quorum, compensation.***—(a) The Environmental Management Commission shall consist of 13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:

(1) one who shall be a licensed physician;

(2) one who shall, at the time of appointment, be actively connected with the Commission for Health Services or local board of health or have had experience in water and air pollution control activities;

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(3) one who shall, at the time of appointment, be actively connected with or have had experience in agriculture;

(4) one who shall, at the time of appointment, be a registered engineer experienced in the planning or conservation of water or air resources, or planning of water or sewer systems, or having experience in the field of industrial water supply or water and air pollution control, or have had practical experience in water supply and water and air pollution control problems of municipal government;

(5) one who shall, at the time of appointment, be actively connected with or have had experience in the fish and wildlife activities of the State;

(6) one who shall, at the time of appointment, be actively connected with or knowledgeable in the ground water industry;

(7) five members interested in water and air pollution control, appointed from the public at large;

(8) one who shall, at the time of appointment, be actively connected with industrial production or have had experience in the field of industrial air and water pollution control; and

(9) one who shall, at the time of appointment, be actively connected with or have had experience in pollution control problems of municipal or county government. The Governor, by executive order, shall promulgate criteria for determining the eligibility of persons under this section and for this purpose, may promulgate the rules, regulations or guidelines established by any federal agency interpreting and applying equivalent provisions of law.

(b) Members so appointed shall serve terms of office of six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications. The initial members of the Environmental Management Commission shall be those members of the present Board of Water and Air Resources who shall meet the above standards for membership on the Environmental Management Commission and who shall serve on the Environmental Management Commission for a period equal to the remainder of their current terms on the Board of Water and Air Resources four of whose appointments expire June 30, 1975, five of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1979. Any initial appointment to replace a member of the present Board of Water and Air Resources who does not meet the above standards for membership on the Environmental Management Commission shall be for a period equal to the replaced member's unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 21. Officers of the Environmental Management Commission.**—The Environmental Management Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term whichever comes first.

**Sec. 22. Regular and special meetings.**—The Environmental Management Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

**Sec. 23. Environmental Management Commission; conforming changes.**—(a)(1) Whenever the words “Board of Water and Air Resources” or “Board” when referring to the Board of Water and Air Resources or the words “Board of Water Resources of the State of North Carolina” or the word “Board” when referring to the “Board of Water Resources of the State of North Carolina” are used or appear in any statute or law of this State, the same shall be deleted and the words “Environmental Management Commission” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references the words “Board of Water and Air Resources” or “Board” when referring to the Board of Water and Air Resources shall be deleted and the words “Department of Natural and Economic Resources” or “Department” as appropriate shall be inserted in lieu thereof: G.S. 87-91(b), line 3; G.S. 87-92(3), lines 2 and 5; G.S. 87-92(5), line 1; G.S. 87-93, line 5; G.S. 87-93(1), line 4; G.S. 105-122(b), line 15; G.S. 105-122(d), line 46; G.S. 105-122(d), line 47 and 48; G.S. 105-130.10, line 14; G.S. 105-147(13), line 16; G.S. 105-278(11), lines 6 and 7; G.S. 143-211, line 13; G.S. 143-214.1(e)(2), line 4; G.S. 143-214.1(e)(3), line 2; G.S. 143-215.1(c)(2), line 1; G.S. 143-215.3(a)(7), lines 18, 21, and line 2 of paragraph 2; G.S. 143-215.3(a)(11)e.2., line 6; G.S. 143-215.3(a)(12), line 4; G.S. 143-215.3(b), lines 1, 4, 7, and 12; G.S. 143-215.4(a), lines 3, 6, 10, and 12; G.S. 143-215.4(b), lines 9 and 10; G.S. 143-215.4(c), lines 1 and 5; G.S. 143-215.4(d)(1), line 4; G.S. 143-215.4(d)(3), lines 2 and 5; G.S. 143-215.4(d)(10), lines 1, 6, and 7; G.S. 143-215.5(1), lines 1 and 4; G.S. 143-215.13(c)(1), line 2; G.S. 143-215.13(c)(2), lines 1 and 6; G.S. 143-215.13(c)(4), line 7; G.S. 143-215.13(c)(5), line 4; G.S. 143-215.13(c)(7), line 11; G.S. 143-215.15(c), line 2; G.S. 143-215.15(d), lines 8 and 11; G.S. 143-215.15(f)(3), line 5; G.S. 143-215.15(f)(11), lines 1 and 7; G.S. 143-215.15(g), line 5; G.S. 143-215.15(g)(1), lines 1 and the second reference on line 3; G.S. 143-215.16(c), line 5; G.S. 143-215.18(a), the reference to department on line 1, and lines 4 and 10; G.S. 143-215.18(b), line 1; G.S. 143-215.25(4), line 2; G.S. 143-215.26(a), lines 3, 7, 10, and 14; G.S. 143-215.30(a), first reference on line 4; G.S. 143-215.30(c), line 3; G.S. 143-215.32(a), line 4; G.S. 143-215.34, line 5; G.S. 143-215.37, line 11; G.S. 143-215.42(c), line 1; G.S. 143-215.56(b), lines 1 and 12; G.S. 143-215.62(a), lines 1 and 7; G.S. 143-215.62(a)(3), line 2; G.S. 143-215.78, lines 1 and 3; G.S. 143-215.84(b), line 2; G.S. 143-215.87, lines 2, 10 and 12; and G.S. 143-215.88, line 4.

(2) Whenever the words “State Department of Water Resources” or “Department of Water Resources” or “Department” when referring to the State

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Department of Water Resources are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Natural and Economic Resources" or "Department," as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "North Carolina Director of Water and Air Resources", "Director of the Department of Water and Air Resources" or "Director of Water Resources", or "Director" when referring to the Director of the Department of Water and Air Resources or the words "Assistant Director of the Department of Water and Air Resources" or "Assistant Director" when referring to the Assistant Director of the Department of Water and Air Resources are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Natural and Economic Resources" or "Secretary," as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) The words "or Department" shall be inserted after the word "Board" on line 2 of G.S. 87-90.

(2) The words "or Department" shall be inserted after the word "Board" on line 3 of G.S. 87-91(a).

(3) The words "or Department" shall be inserted after the word "Board" on line 10 of G.S. 87-91(b).

(4) A new section to be designated G.S. 87-85(5a) shall read "'Department' means the Department of Natural and Economic Resources unless otherwise indicated."

(5) The word "its" shall be deleted and the words "the Department's" shall be inserted in lieu thereof on line 2 of G.S. 87-92(2).

(6) The words "of the Department" shall be inserted after the word "employee" on line 3 of G.S. 87-92(2).

(7) The word "its" shall be deleted and the words "the Department's" shall be inserted in lieu thereof on line 1 of G.S. 87-92(4).

(8) The words "director or assistant director of the department" shall be deleted and the words "the Secretary of Natural and Economic Resources" shall be inserted in lieu thereof on line 6 of G.S. 87-92(11).

(9) The words "said Board" shall be deleted and the words "the Environmental Management Commission" shall be inserted in lieu thereof on line 15 of G.S. 105-130.10 and line 17 of G.S. 105-147(13) and line 7 of G.S. 105-278(11).

(10) G.S. 143-213(7) shall be deleted and the words "'Commission' means the Environmental Management Commission created under the provisions of this Article and the provisions of the Executive Organization Act of 1973." shall be inserted in lieu thereof.

(11) G.S. 143-213(8) shall be deleted and the words "'Department' means the Department of Natural and Economic Resources." shall be inserted in lieu thereof.

(12) The words "the office of the Board" shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof on line 9 of G.S. 143-214.1(e)(1).

(13) The word “it” shall be deleted and the words “Environmental Management Commission” shall be inserted in lieu thereof on line 1 of G.S. 143-215.1(c)(2).

(14) The word “Board” shall be deleted and the words “Commission or Department” shall be inserted in lieu thereof on line 16 of G.S. 143-215.3(a)(2).

(15) The words “to conduct such investigation” shall be deleted and the words “to direct that such investigation be conducted” shall be inserted in lieu thereof on line 1 of G.S. 143-215.3(a)(2).

(16) The words “its Director, Assistant Director, or to any other qualified employee of the Board” shall be deleted and the words “the Secretary or any other qualified employee of the Department of Natural and Economic Resources” shall be inserted in lieu thereof on lines 2 and 3 of G.S. 143-215.3(a)(4).

(17) The words “its own qualified employees” shall be deleted and the words “the designated employees of the Department” shall be inserted in lieu thereof on lines 6 and 7 of G.S. 143-215.3(a)(4).

(18) The word “investigate” shall be deleted and the words “direct the investigation of” shall be inserted in lieu thereof on line 1 of G.S. 143-215.3(a)(7).

(19) The second sentence of G.S. 143-215.3(a)(7) being lines 11 through 17 shall be rewritten to read as follows: “The measure of damages shall be the amount determined by the Department of Natural and Economic Resources and the North Carolina Wildlife Resources Commission, whichever has jurisdiction over the fish or wildlife destroyed to be the replacement cost thereof plus the cost of all reasonable and necessary investigations made or caused to be made by the State in connection therewith.”

(20) The words “it deems” shall be deleted and the words “the Commission may deem” shall be inserted in lieu thereof on line 20 of G.S. 143-215.3(a)(7).

(21) The third sentence of the second paragraph of G.S. 143-215.3(a)(7) shall be rewritten to read as follows: “The proceeds of any recovery, less the cost of investigation, shall be used to replace, insofar as and as promptly as possible, the fish and wildlife killed, or in cases where replacement is not practicable, the proceeds shall be used in whatever manner the responsible agency deems proper for improving the fish and wildlife habitat in question.”

(22) The words “the Assistant Director, with the approval of the Director and the concurrence of the Governor” shall be deleted and the words “the Secretary of the Department with the concurrence of the Governor” shall be inserted in lieu thereof on lines 6, 7, and 8 of G.S. 143-215.3(a)(12).

(23) The words “Assistant Director” shall be deleted and the word “Secretary” shall be inserted in lieu thereof on line 2 of paragraph 2 of G.S. 143-215.3(a)(12).

(24) The words “the approval of the Director and” shall be deleted from line 6 of paragraph 2 of G.S. 143-215.3(a)(12).

(25) The words “or the Department” shall be inserted between the words “the Board” and the words “may, with the” on line 1 of G.S. 143-215.3(d).

(26) The words “its official acts” shall be deleted and the words “the official acts of the Commission” shall be inserted in lieu thereof on line 7 of G.S. 143-215.4(a).

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(27) The word “its” shall be deleted and the words “the Commission’s” shall be inserted in lieu thereof on line 10 of G.S. 143-215.4(b).

(28) The word “appointed” shall be deleted and the word “designated” shall be inserted in lieu thereof on line 2 of G.S. 143-215.4(d)(3).

(29) The words “Director or Assistant Director of the Department” shall be deleted and the words “Secretary of the Department” shall be inserted in lieu thereof on line 6 of G.S. 143-215.4(d)(10).

(30) The words “Board shall send a certified transcript” shall be deleted and the words “Department shall send a transcript certified by the Board” shall be inserted in lieu thereof on line 8 of G.S. 143-215.5(b).

(31) The words “office of” shall be deleted from G.S. 143-215.13(c)(4), line 7.

(32) The words “or the Department” shall be inserted between the words “given by the Board” and the words “or by any party” on line 1 of G.S. 143-215.15(e).

(33) The words “or the Department” shall be inserted between the words “notice by the Board” and the words “may be given” on line 5 of G.S. 143-215.15(e).

(34) The words “of its own qualified employees” shall be deleted and the words “qualified employees of the Department” shall be inserted in lieu thereof on lines 2 and 3 of G.S. 143-215.15(f)(2).

(35) The last sentence of G.S. 143-215.15(f)(2) shall be rewritten to read as follows: “Any member of the Commission or employee of the Department of Natural and Economic Resources to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission for decision.”

(36) The words “appointed by the Board” shall be deleted and the words “designated by the Department” shall be inserted in lieu thereof on line 2 of G.S. 143-215.15(f)(3).

(37) The words “Director or Assistant Director of the Department” shall be deleted and the words “Secretary of the Department” shall be inserted in lieu thereof on line 5 of G.S. 143-215.15(f)(11).

(38) The word “conduct” shall be deleted and the words “direct the conduct of” shall be inserted in lieu thereof on line 1 of G.S. 143-215.19.

(39) The words “or Department” shall be inserted between the words “representative of the Board” and the words “who request entry” on line 12 of G.S. 143-215.19.

(40) G.S. 143-215.21(2) shall be rewritten to read as follows: “‘Commission’ means the Environmental Management Commission, or its successor.”

(41) G.S. 143-215.21(4) shall be rewritten to read as follows: “‘Department’ means the Department of Natural and Economic Resources, or its successor.”

(42) G.S. 143-215.25(1) shall be rewritten to read as follows: “‘Commission’ means the Environmental Management Commission.”

(43) G.S. 143-215.25(3) shall be rewritten to read “‘Department’ means the North Carolina Department of Natural and Economic Resources.”

(44) The words “the Department of Conservation and Development,” shall be deleted from lines 3 and 4 of G.S. 143-215.26(b).

(45) The first sentence of G.S. 143-215.32(a) shall be rewritten to read as follows: "The Department is hereby authorized at any time to inspect any dam upon receipt of a written request of any affected person or agency, or upon a motion of the Environmental Management Commission."

(46) G.S. 143-215.32(b) shall be rewritten to read as follows: "If the Department upon inspection finds that any dam is not sufficiently strong, or is not maintained in good repair or operating condition, or is dangerous to life or property, or does not satisfy minimum stream flow requirements, the Department shall cause such evidence to be presented to the Commission and the Commission may issue an order directing the owner or owners of the dam to make at his or her expense maintenance, alterations, repairs, reconstruction, change in construction or location, or removal as may be deemed necessary by the Commission within a time limited by the order, not less than ninety days from the date of issuance of each order, except in the case of extreme danger to the safety of life or property, as provided by subsection (c) of this section."

(47) The first sentence of G.S. 143-215.35 is hereby rewritten to read: "No action shall be brought against the State of North Carolina, the Department, or the Environmental Management Commission or any agent of the Commission or any employee of the State or the Department for damages sustained through the partial or total failure of any dam or its maintenance by reason of any supervision or other action taken pursuant to or under this part."

(48) The word "Department" shall be deleted and the word "Commission" shall be inserted in lieu thereof on line 2 of G.S. 143-215.36(b).

(49) G.S. 143-215.37 is hereby rewritten to read as follows:

"§ 143-215.37. *Rights of investigation, entry, access, and inspection.*—The Commission shall have the right to direct the conduct of such investigations as it may reasonably deem necessary to carry out its duties prescribed in this part, and the Department shall have the right to conduct such investigations, and for this purpose the employees of the Department and agents of the Commission have the right to enter at reasonable times on any property, public or private, for the purpose of investigating the condition, construction, or operation of any dam or associated equipment facility or property, and to require written statements or the filing of reports under oath, with respect to pertinent questions relating to the construction or operation of any dam: Provided, that no person shall be required to disclose any secret formula, processes or methods used in any manufacturing operation or any confidential information concerning business activities carried on by him or under his supervision. No person shall refuse entry or access to any authorized representative of the Commission or Department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties."

(50) The word "its" shall be deleted and the words "the Commission's" shall be inserted in lieu thereof on line 1 of G.S. 143-215.42(c).

(51) The word "make" shall be deleted from the third line of G.S. 143-215.48(b).

(52) The word "make" shall be deleted and the word "authorize" shall be inserted in lieu thereof on line 15 of G.S. 143-215.62(b).

(53) The word "either" shall be deleted from line 6 of G.S. 143-215.65.

(54) The word "or" shall be deleted and the words "the Department and" shall be inserted in lieu thereof on line 7 of G.S. 143-215.65.

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(55) The last sentence of G.S. 143-215.65 shall be rewritten to read as follows: "The Department shall provide proper and adequate facilities and procedures and the Commission shall adopt adequate regulations to safeguard the confidentiality of proprietary manufacturing processes except that confidentiality shall not extend to wastes discharged or air contaminants emitted."

(56) G.S. 143-215.77(7) shall be rewritten to read as follows:

"(7) 'Department' shall mean the Department of Natural and Economic Resources."

(57) The words "Director or Assistant Director of the Board" shall be deleted and the words "Secretary of Natural and Economic Resources" shall be inserted in lieu thereof on line 7 of G.S. 143-215.85.

(58) The words "The North Carolina Department of Conservation and Development" shall be deleted from lines 2 and 3 of G.S. 143-215.86(a) and G.S. 143-215.86(b).

(59) The words "the Board of Conservation and Development" shall be deleted from lines 14 and 15 of G.S. 143-215.90.

(60) Notwithstanding the conforming changes in the Executive Organization Act of 1973, G.S. 143-357(a) will remain as worded on the date of ratification of the Executive Organization Act of 1973.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-212; G.S. 143-214; G.S. 143-215.10.

**Sec. 24. Marine Fisheries Commission; creation, powers, and duties.**— There is hereby created the Marine Fisheries Commission of the Department of Natural and Economic Resources with the power and duty to adopt rules and regulations to be followed in the protection, preservation, and enhancement of the commercial and sports fisheries resources of the State.

(a) The Marine Fisheries Commission shall have the following powers and duties:

(1) the Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:

(i) Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish.

(ii) Seasons for taking fish.

(iii) Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.

(2) to adopt regulations and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of oysters and clams in North Carolina both from public grounds and private beds as provided in G.S. 113-201;

(3) to close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204;

(4) in the interest of conservation of the marine and estuarine resources of North Carolina, the Commission may institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of North Carolina registered with the Department as provided in G.S. 113-206(d);

(5) to delegate to the Secretary of Natural and Economic Resources the authority by proclamation to suspend or implement, in whole or in part,

particular regulations of the Commission which may be affected by variable conditions as provided in G.S. 113-221(e);

(6) to make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223;

(7) to make relevant provisions of federal laws and regulations as State regulations pursuant to G.S. 113-228; and

(8) to control activities in coastal wetlands as provided in G.S. 113-230.

(b) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules and regulations:

(1) implementing the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134 of the General Statutes of the State of North Carolina;

(2) for the disposition of confiscated property as set forth in G.S. 113-137;

(3) governing all license requirements and taxes prescribed in G.S. Chapter 113, Article 14;

(4) governing the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of North Carolina as provided in G.S. 113-160;

(5) governing the possession, transportation and disposition of seafood as provided in G.S. 113-164;

(6) regarding the disposition of the young of edible fish taken incidentally and unavoidably as provided by G.S. 113-185;

(7) regarding the leasing of public grounds for oysters and clam production as provided in G.S. 113-202;

(8) governing utilization of private fisheries as provided in G.S. 113-205;

(9) regarding permits to dredge or fill as provided in G.S. 113-229; and

(10) imposing further restrictions upon the throwing of fish offal in any coastal fishing waters as provided in G.S. 113-265.

(c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:

(1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities within the jurisdiction of the Department.

(2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to implement the work of the Department in carrying out its duties as provided in G.S. 113-182.

(d) The Commission is authorized and empowered to make such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for coastal resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(e) The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Economic Resources.

**Sec. 25. Marine Fisheries Commission; members, selection, quorum, compensation.**—The Marine Fisheries Commission shall consist of seven

members appointed by the Governor. The Governor shall select the members so that all the following interests are represented: (1) one who shall at the time of appointment be actively connected with and have experience in commercial fishing, (2) one who shall at the time of appointment be actively connected with and have experience in wildlife or sport fishing, (3) one who shall at the time of appointment have special training and expertise in marine ecology, (4) one who shall at the time of appointment be actively connected with and have experience in coastal land development, (5) one who shall at the time of appointment be actively connected with and have experience in seafood processing and distribution, and (6) two at large who shall at the time of appointment be residents of the coastal area.

Members so appointed shall serve terms of office of six years. Two of the initial members shall be appointed for two years, two for four years, and three for six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 26. *Officers of the Marine Fisheries Commission.***—The Marine Fisheries Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term, whichever comes first.

**Sec. 27. *Regular and special meetings.***—The Marine Fisheries Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

**Sec. 28. *Marine Fisheries Commission; conforming changes.***—(a)(1) Whenever the words "Board of Conservation and Development" or "Board" when referring to the Board of Conservation and Development are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references the words "Board of Conservation and Development" or "Board" when referring to the Board of Conservation and Development shall be deleted and the words "Marine Fisheries Commission" or "Commission", as appropriate, shall be inserted in lieu thereof: G.S. 113-129, line 9 of paragraph 3; G.S. 113-132(e), line 6; G.S. 113-137(i), lines 1 and 7 of paragraph 2; G.S. 113-137(j), line 4; G.S. 113-138,

line 1; G.S. 113-151, line 1; G.S. 113-152(b), lines 10 and 12; G.S. 113-153, line 6; G.S. 113-155(e), lines 7 and 10; G.S. 113-156(b), line 1; G.S. 113-156(b)(1), line 5; G.S. 113-157(b), line 2; G.S. 113-157(e), lines 15 and 16; G.S. 113-158(b), line 1; G.S. 113-160, line 1; G.S. 113-163(b), line 9; G.S. 113-164, line 1; G.S. 113-166(a), line 5; G.S. 113-166(f), line 4; G.S. 113-166(g), line 1; G.S. 113-181(b), line 2; G.S. 113-182(a), line 1; G.S. 113-185(b), line 1 of paragraph 2; G.S. 113-188, line 3; G.S. 113-201, line 1; G.S. 113-202(a), line 2; G.S. 113-202(f), lines 10 and 15; G.S. 113-202(g), lines 2 and 6; G.S. 113-202(h), lines 1, 4, 5, 7, 9, and 12; G.S. 113-202(i), lines 1 and 5; G.S. 113-202(l)(4), line 2; G.S. 113-202(l)(7) line 2 and lines 1 and 11 of paragraph 2; G.S. 113-202(m), lines 9 and 17; G.S. 113-202(p), lines 3 and 7, of paragraph 1, and lines 12, 13, 14, and 16 of paragraph 2; G.S. 113-203(c), lines 3 and 4; G.S. 113-203(d), paragraph 1, line 2 and paragraph 2, lines 8 and 10; G.S. 113-203(e), line 1; G.S. 113-205(b), line 1; G.S. 113-206(b), line 7; G.S. 113-221(a), lines 1 and 4; G.S. 113-221(b), line 1; G.S. 113-221(c), lines 1 and 6; G.S. 113-221(d), lines 1 and 6 and both references on lines 9 and 14; G.S. 113-221(e), lines 1 and 2; G.S. 113-221(f), line 2; G.S. 113-228, lines 3 and 6; G.S. 113-230(a), line 3; G.S. 113-230(g), line 3; G.S. 113-265(b), line 3; G.S. 113-310, line 3; G.S. 113-312, line 3; G.S. 113-313, line 2; G.S. 113-313(1), line 1; G.S. 113-313(2), line 1; G.S. 113-313(3), line 1; G.S. 113-315.5, line 3; and G.S. 113-322, line 2.

(2) Whenever the words “Commissioner of Commercial and Sports Fisheries” or “Commissioner” when referring to the Commissioner of Commercial and Sports Fisheries are used or appear in any statute or law of this State, the same shall be deleted and the words “Secretary of Natural and Economic Resources” or “Secretary,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words “Division of Commercial and Sports Fisheries” or “Division” when referring to the Division of Commercial and Sports Fisheries are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Natural and Economic Resources” or “Department,” as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) The words “‘Board’ means the Board of Conservation and Development; and” shall be deleted from lines 3 and 4 of G.S. 113-1.

(2) The words “‘director’ means the director of Conservation and Development” shall be deleted and the words “‘Secretary’ means the Secretary of Natural and Economic Resources” shall be inserted in lieu thereof on line 4 of G.S. 113-1.

(3) The first sentence of G.S. 113-8 being lines 1 through 4 shall be deleted.

(4) The word “it” shall be deleted and the words “the Department of Natural and Economic Resources” shall be inserted in lieu thereof on line 1 of paragraph 2 of G.S. 113-8.

(5) The last sentence of G.S. 113-8 shall be deleted.

(6) The first sentence of G.S. 113-14 shall be deleted.

(7) The words “reports and” shall be deleted from paragraph 2, line 7 of G.S. 113-14.

(8) The words "Director of the Department of Conservation and Development" shall be deleted and the words "Secretary of Natural and Economic Resources" shall be inserted in lieu thereof in G.S. 113-14.1(b), line 1.

(9) The words "Department of Water and Air Resources" shall be deleted and the words "Environmental Management Commission" shall be inserted in lieu thereof in G.S. 113-14.1(b), paragraph 2, line 2.

(10) The words "with the approval of the Board" shall be deleted from line 7 of G.S. 113-15.2.

(11) The last sentence of G.S. 113-15.2 shall be deleted.

(12) The words "through the Division of Forestry, to be known and hereafter designated" shall be deleted from lines 1 and 2 of G.S. 113-29.

(13) The words "through the Forest Service" shall be deleted from line 9 of G.S. 113-29.1.

(14) The words "through the Director of said Department" shall be deleted from lines 8 and 9 of G.S. 113-31.

(15) The words "with the approval of the Board of Conservation and Development" shall be deleted from lines 2 and 3 of G.S. 113-48.

(16) G.S. 113-52 shall be rewritten to read as follows:

"§ 113-52. *Forest rangers.*—The Secretary of Natural and Economic Resources may appoint one county forest ranger and one or more deputy forest rangers in each county of the State in which, after careful investigation, the amount of forest land and the risks from forest fires shall, in his judgment, warrant the establishment of a forest fire organization."

(17) The words "North Carolina Forest Service" shall be deleted from lines 2 and 3 of G.S. 113-60.4.

(18) The words "North Carolina Forest Service" shall be deleted from line 3 of G.S. 113-60.5.

(19) The words "by the State Forester," shall be deleted from line 4 of G.S. 113-60.5.

(20) The words "The North Carolina Forest Service with the prior approval of the Board of Conservation and Development," shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof on lines 2 and 3 of G.S. 113-60.15.

(21) The words "and the Board of Conservation and Development" and the words "North Carolina Forest Service" shall be deleted from lines 14, 19, and 20 of G.S. 113-81.1.

(22) G.S. 113-128 shall be rewritten to read as follows: "The following definitions apply to powers and administration of agencies charged with the conservation of marine and estuarine and wildlife resources:

(a) Committee: Commercial and Sports Fisheries Committee.

(b) Department: Department of Natural and Economic Resources.

(c) Commercial and Sports Fisheries Inspector: An employee of the Department of Natural and Economic Resources sworn in as an officer and assigned the duties which include exercise of law enforcement power. All references and statutes, regulations, contracts, and other legal and official documents to Commercial Fisheries Inspectors apply to Commercial and Sports Fisheries Inspectors.

(d) Secretary: Secretary of Natural and Economic Resources.

(e) Executive Director: Executive Director, North Carolina Wildlife Resources Commission.

(f) Inspector: Commercial and Sports Fisheries Inspector.

(g) Protector: Wildlife Protector.

(h) Notice: Notify: Where it is required that notice be given an agency of a situation within a given number of days, this places the burden on the person giving notice to make sure that the information is received in writing by a responsible member of the agency within the time limit.

(i) Wildlife Protector: An employee of the North Carolina Wildlife Resources Commission sworn in as an officer and assigned to duties which include exercise of law enforcement powers.

(j) Wildlife Resources Commission: North Carolina Wildlife Commission as established by Article 24 of Chapter 143 of the General Statutes of North Carolina and as modified by any amendments which became effective prior to 1974.

(23) The words "Board and Department of Water Resources" shall be deleted and the words "Environmental Management Commission" shall be inserted in lieu thereof in G.S. 113-132(c).

(24) The words "Department and the Commission are" shall be deleted and the words "Marine Fisheries Commission or The Wildlife Resources Commission, as appropriate, are" shall be inserted in lieu thereof on line 1 of G.S. 113-134.

(25) The words "Department or the Commission" shall be deleted and the words "Marine Fisheries Commission or The Wildlife Resources Commission, as appropriate," inserted in lieu thereof on line 2 of G.S. 113-135.

(26) The words "Division of Commercial and Sports Fisheries" shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof on line 3 of G.S. 113-136(b).

(27) The last sentence of G.S. 113-157(a) shall be rewritten to read as follows: "The Marine Fisheries Commission may make reasonable regulations governing the assessment of the seafood tax and the Department may make reasonable regulations governing the administration and collection of said tax."

(28) The words "upon recommendation of the Commissioner," shall be deleted from lines 1 and 2 of G.S. 113-161.

(29) The words "Director, and, if dissatisfied, to the" shall be deleted from lines 3 and 4 of G.S. 113-166(f).

(30) The words "The Board is authorized to authorize, license, regulate, prohibit, prescribe, or restrict:" shall be deleted and the words "The Marine Fisheries Commission is authorized to authorize, regulate, prohibit, prescribe, or restrict and the Department is authorized to license;" shall be inserted in lieu thereof on lines 1 and 2 of G.S. 113-182(b).

(31) The words "upon the recommendation of the Commissioner," shall be deleted from G.S. 113-202(a), lines 2 and 3.

(32) The word "him" shall be deleted and the words "the Department" shall be inserted in lieu thereof on line 2 of G.S. 113-202(d).

(33) The words "Director, and, if dissatisfied, to the" shall be deleted from line 9 of G.S. 113-202(m).

(34) The words "by the Director or" shall be deleted from line 17 of G.S. 113-202(m).

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(35) The words "upon the recommendation of the Commissioner" shall be deleted from G.S. 113-221(e), line 4.

(36) The words "for the use of the division" shall be deleted from G.S. 113-226(b), line 3.

(37) Whenever the words "Review Board" or "Board" when referring to the Review Board are used or appear in G.S. 113-229, the same shall be deleted and the words "Review Commission" shall be inserted in lieu thereof.

(38) The words, "call a meeting of a Review Board composed of the director (or their designees) of the following State agencies: The Department of Administration, the Department of Conservation and Development, the Board of Health, the Department of Water and Air Resources, the Wildlife Resources Commission, and any other agency that may be designated by the Governor. The Director of the Department of Conservation and Development, if he does not sit on the review himself, may appoint two designees, one to represent conservation interests and one to represent development interests. The Review Board shall set a date for a hearing not more than 60 days from the date of the departmental action.", shall be deleted and the words, "refer the matter to the Marine Fisheries Commission. The Marine Fisheries Commission shall hear the matter at its next regularly scheduled meeting, but in no case more than 90 days from the date of the departmental action", shall be inserted in lieu thereof in G.S. 113-229(f), line 3.

(39) G.S. 113-251(b)(c) shall be rewritten to read as follows:

"(b) The reference in Article III of the compact set out in G.S. 113-252 to the Chairman of the Committee on Commercial Fisheries shall be deemed to refer to the Chairman of the Marine Fisheries Commission.

(c) The reference in Article III of the compact set out in G.S. 113-252 to the Commissioner of Commercial Fisheries shall be deemed to refer to the Secretary of Natural and Economic Resources.

(d) The reference in Article III of the compact set out in G.S. 113-252 to the Board of the North Carolina Department of Conservation and Development shall be deemed to refer to the Secretary of Natural and Economic Resources."

(40) The second sentence of G.S. 113-254 shall be deleted and the words "Secretary of Natural and Economic Resources" shall be inserted in lieu thereof on lines 10, 11, 12, and 13 of G.S. 113-254.

(41) The words "the Director of the Department of Conservation and Development, the Chairman of the Commercial and Sports Fisheries Committee, or the Commissioner of Commercial and Sports Fisheries" shall be deleted and the words "Secretary of Natural and Economic Resources" shall be inserted in lieu thereof on lines 26, 27, and 28 of G.S. 113-254.

(42) The words "Department of Water Resources and State Stream Sanitation Committee" shall be deleted from line 2 of G.S. 113-265(a) and the words "Environmental Management Commission" shall be inserted in lieu thereof.

(43) G.S. 113-316 is hereby amended by deleting the words "The Commissioner of Commercial Fisheries and the Division of Commercial Fisheries of the Department of Conservation and Development are renamed the Commissioner of Commercial and Sports Fisheries and the Division of Commercial and Sports Fisheries; the Commercial Fisheries Committee of the Department of Conservation and Development is renamed the Commercial and Sports Fisheries Committee; the Commercial Fisheries Advisory Board is

abolished and in its stead is created the Commercial and Sports Fisheries Advisory Board” from line 3 thereof.

(44) The words “for transmittal to the Board of Conservation and Development” shall be deleted from line 7 of paragraph 2 of G.S. 113-315.9.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 113-2; G.S. 113-4; G.S. 113-5; G.S. 113-5.1; G.S. 113-6; G.S. 113-7; G.S. 113-9; G.S. 113-10; G.S. 113-11; G.S. 113-12; G.S. 113-13; G.S. 113-14.1(a); G.S. 113-14.1(b)(7); G.S. 113-44.1; G.S. 113-44.2; G.S. 113-53; G.S. 113-226(d); G.S. 113-227; G.S. 113-241; G.S. 113-242; G.S. 113-243; G.S. 113-244; G.S. 113-245; G.S. 113-318; G.S. 113-319; and G.S. 113-320.

**Sec. 29. North Carolina Mining Commission; creation, powers, and duties.**—There is hereby created the North Carolina Mining Commission of the Department of Natural and Economic Resources with the power and duty to promulgate rules and regulations for the enhancement of the mining resources of the State.

(a) The North Carolina Mining Commission shall have the following powers and duties:

(1) to act as the advisory body to the Interstate Mining Compact pursuant to G.S. 74-38 (a);

(2) to adopt and modify rules and regulations to implement Chapter 74, Article 6, pursuant to G.S. 74-44(b);

(3) to hear permit appeals, conduct a full and complete hearing on such controversies and affirm, modify, or overrule permit decisions made by the Department pursuant to G.S. 74-61; and

(4) to promulgate rules and regulations necessary to administer the Mining Act of 1971, pursuant to G.S. 74-63.

(b) The Commission is authorized and empowered to make such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(c) The Commission shall make such rules and regulations, consistent with the provisions of this Chapter. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Economic Resources.

**Sec. 30. North Carolina Mining Commission; members, selection, quorum, compensation.**—(a) The North Carolina Mining Commission shall consist of nine members appointed by the Governor. The Commission shall be composed of the following: one member who is the chairman of the North Carolina State University Minerals Research Laboratory Advisory Committee; three representatives of mining industries; three representatives of nongovernmental conservation interests and two who shall represent the Environmental Management Commission and be knowledgeable in the principles of water and air resources management.

The initial members of the North Carolina Mining Commission shall be those members of the present North Carolina Mining Council who shall meet the above requirements for membership on the North Carolina Mining Commission and who shall serve on the North Carolina Mining Commission for

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a period equal to the remainder of their current terms on the North Carolina Mining Council. The remaining initial members shall be appointed by the Governor to staggered terms of six years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. At the expiration of each member's term, the Governor shall replace the member with a new member of like qualifications for a term of six years.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department.

**Sec. 31. *Officers of the North Carolina Mining Commission.***—The North Carolina Mining Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

**Sec. 32. *Regular and special meetings.***—The North Carolina Mining Commission shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members.

**Sec. 33. *North Carolina Mining Commission; conforming changes.***—(a)(1) Whenever the words "Mining Council" or "Council" when referring to the Mining Council are used or appear in any statute or law of this State, the same shall be deleted and the words "Mining Commission" or "Commission", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) G.S. 74-38(c) shall be redesignated G.S. 74-38(a) and rewritten to read as follows: "In accordance with Article V(i) of the Compact, the Commission shall file copies of the bylaws and any amendments thereto with the Department of Natural and Economic Resources."

(2) The words "G.S. 74-38" shall be deleted and the words "the Executive Organization Act of 1973" shall be inserted in lieu thereof in G.S. 74-40(1).

(3) The words "State Mining Engineer" shall be deleted and the words "Secretary of Natural and Economic Resources" shall be inserted in lieu thereof on line 1 of G.S. 74-42.

(4) The words "State Mining Engineer" shall be deleted and the words "Department of Natural and Economic Resources" shall be inserted in lieu thereof on line 3 of G.S. 74-43 and line 1 of G.S. 74-43(3).

(5) The words "its Secretary" shall be deleted and the words "the Department of Natural and Economic Resources" shall be inserted in lieu thereof on line 6 of G.S. 74-61.

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 74-38(a); G.S. 74-38(b); G.S. 74-41; and G.S. 74-44(a).

**Sec. 34. *Soil and Water Conservation Commission; creation, powers, and duties.***—There is hereby created the Soil and Water Conservation Commission of the Department of Natural and Economic Resources with the power and duty to adopt rules and regulations to be followed in the development and implementation of a soil and water conservation program:

(a) The Soil and Water Conservation Commission has the following powers and duties:

- (1) to approve petitions for soil conservation districts
- (2) to approve application for watershed plans; and
- (3) such other duties as specified in Chapter 139.

(b) The Commission shall adopt rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the Soil and Water Conservation Committee shall remain in full force and effect unless and until repealed or superseded by action of the Soil and Water Conservation Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural and Economic Resources.

**Sec. 35. *Soil and Water Conservation Commission; members, selection, quorum, compensation.***—The Soil and Water Conservation Commission of the Department of Natural and Economic Resources shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members: (a) the president, first vice-president, and immediate past president of the North Carolina Association of Soil and Water Conservation Districts. Vacancies arising in any of these positions shall be filled through appointment by the Governor upon the nomination by the executive committee of the North Carolina Association of Soil and Water Conservation Districts; (b) three supervisor members nominated by the North Carolina Association of Soil and Water Conservation Districts from its own membership representing the three major geographical regions of the State and appointed by the Governor; (c) one member appointed at large by the Governor.

The initial members of the Commission shall be the members of the Soil Conservation Committee who shall serve for a period equal to the remainder of their current terms on the Soil Conservation Committee. At the end of the respective terms of office of the initial members of the Commission, their successors, except those members serving in an ex officio capacity, shall be appointed for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 36. Officers of the Soil and Water Conservation Commission.**—The Soil and Water Conservation Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

**Sec. 37. Regular and special meetings.**—The Soil and Water Conservation Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least four members.

**Sec. 38. State Soil and Water Conservation Commission; conforming changes.**—(a)(1) Whenever the words “State Soil and Water Conservation Committee” or the words “State Committee” or “Committee” when referring to the State Soil and Water Conservation Committee or the words “State Soil Conservation Committee” are used or appear in any statute or law of this State, the same shall be deleted and the words “State Soil Conservation Commission” or “Commission”, as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973. With the exception that in the following references, the words “State Soil and Water Conservation Committee”, “State Committee”, “Committee” and “State Soil Conservation Committee” when referring to the State Soil and Water Conservation Committee shall be deleted and the words “Department of Natural and Economic Resources” or “Department”, as appropriate, shall be inserted in lieu thereof: G.S. 139-5(d), line 1; G.S. 139-5(e), line 1; G.S. 139-7, paragraph 3, line 12 and paragraph 4, line 2; and G.S. 139-13, paragraph 2, line 1 and paragraph 4, line 1.

(2) Whenever the words “State Stream Sanitation Committee” or “Stream Sanitation Committee” or “Committee” when referring to the State Stream Sanitation Committee are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Natural and Economic Resources” or “Department”, as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words “Board of Water Resources of the State of North Carolina” or the words “State Board” or “Board” when referring to the Board of Water Resources of the State of North Carolina as appearing in Chapter 139 of the General Statutes are used or appear in that or any law of this State, the same shall be deleted and the words “Environmental Management Commission” or “Commission”, as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendment shall be made to the General Statutes of North Carolina: The words “State Forest Nursery, operated by the State Department of Conservation and Development” shall be deleted and the words “Department of Natural and Economic Resources” shall be inserted in lieu thereof on lines 11 and 12 of G.S. 139-8(8).

(c) The following sections are hereby repealed: G.S. 139-4(a); G.S. 139-4(b); and G.S. 139-4(c).

**Sec. 39. *Sedimentation Control Commission; creation, powers, and duties.***—There is hereby created the Sedimentation Control Commission of the Department of Natural and Economic Resources with the power and duty to develop and administer a sedimentation control program as herein provided.

(a) The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.

(3) Conduct public hearings pursuant to G.S. 113A-54.

(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.

(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.

(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54.

**Sec. 40. *Sedimentation Control Commission.***—(a) There is hereby created in the Department of Natural and Economic Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

(1) The Secretary of the Department of Natural and Economic Resources, who shall be chairman, and who may designate some other officer in the Department to act in his stead;

(2) A person to be nominated by the Board of the North Carolina Home Builders Association;

(3) A person to be nominated by the Carolinas Branch, Associated General Contractors of America;

(4) The president, vice-president, or general counsel of a North Carolina public utility company;

(5) The Director of the North Carolina Water Resources Research Institute;

(6) A member of the State Mining Commission who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b);

(7) A member of the State Soil and Water Conservation Commission;

(8) A member of the Environmental Management Commission;

(9) A soil scientist from the faculty of North Carolina State University; and

(10) Two persons who shall be representatives of nongovernmental conservation interests.

(b) Appointment. The Commission members shall be appointed by the Governor and all initial appointments shall be made on or before August 1, 1973. All Commission members, except the person filling position number five,

as specified above, shall serve staggered terms of office of four years. The person filling position number five shall serve as a member of the Commission, subject to removal by the Governor as hereinafter specified in this section, so long as he continues as Director of the Water Resources Research Institute. The initial terms of office for members filling positions two, three, and four, as specified above, shall expire June 30, 1975; thereafter, the terms of office for members filling those positions shall be four years. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance or, in the case of members filling positions one, five, six, seven, eight, and nine, as specified above, because they no longer possess the required qualifications for membership. In each instance appointments to fill vacancies in the membership of the Commission shall be a person or persons with similar experience and qualifications in the same field required of the member being replaced. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

(c) Compensation. The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. The Commission shall meet at the call of the chairman and shall hold special meetings at the call of a majority of the members.

**Sec. 41.** *Sedimentation Control Commission; conforming changes.*—The following section of the General Statutes of North Carolina is hereby repealed: G.S. 113A-53.

**Sec. 42.** *Wastewater Treatment Plant Operators Certification Commission; creation, powers and duties.*—There is hereby created the Wastewater Treatment Plant Operators Certification Commission of the Department of Natural and Economic Resources with the power and duty to adopt rules and regulations with respect to the certification of wastewater treatment plant operators as provided by Article 3 of Chapter 90A of the General Statutes of North Carolina.

The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for programs concerned with the certification of wastewater treatment plant operators which may be made available to the State by the federal government. This section is to be liberally

construed in order that the State and its citizens may benefit from such grants-in-aid.

**Sec. 43. Wastewater Treatment Plant Operators Certification Commission; members, selection, quorum, compensation.**—The Wastewater Treatment Plant Operators Certification Commission of the Department of Natural and Economic Resources shall consist of seven members appointed by the Secretary of Natural and Economic Resources with the approval of the Environmental Management Commission with the following qualifications:

(1) two members shall be currently employed as wastewater treatment plant operators, wastewater plant superintendents, water and sewer superintendents, or equivalent positions with a North Carolina municipality;

(2) one member shall be manager of a North Carolina municipality having a population of more than 10,000 as of the most recent federal census;

(3) one member shall be manager of a North Carolina municipality having a population of less than 10,000 as of the most recent federal census;

(4) one member shall be employed by a private industry and shall be responsible for supervising the treatment or pretreatment of industrial wastewater;

(5) one member who is a faculty member of a four-year college or university and whose major field is related to wastewater treatment; and

(6) one member who is employed by the Department of Natural and Economic Resources and works in the field of water pollution control, who shall serve as Chairman of the Certification Commission.

The initial members of the Commission shall be the members of the Wastewater Treatment Plant Operators Board of Certification who shall serve for a period equal to the remainder of their current terms on the Wastewater Treatment Plant Operators Board of Certification. At the end of the respective terms of office of the initial members of the Commission, their successors shall be appointed for staggered terms of three years and until their successors are appointed and qualify.

The Chairman of the Wastewater Treatment Plant Operators Certification Commission shall serve at the pleasure of the Secretary of Natural and Economic Resources.

Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of Section 13 of the Executive Organization Act of 1973.

The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and Section 15 of the Executive Organization Act of 1973.

A majority of the Commission shall constitute a quorum for the transaction of business.

All clerical and other services required by the Commission shall be supplied by the Secretary of the Department.

**Sec. 44. Wastewater Treatment Plant Operators Certification Commission; conforming changes.**—The following section of the General Statutes of North Carolina is hereby repealed: G.S. 90A-36.

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**Sec. 45. *The Earth Resources Council; creation, powers, and duties.***—There is hereby created the Earth Resources Council of the Department of Natural and Economic Resources. The Earth Resources Council shall have the following functions and duties:

(a) to advise the Secretary of Natural and Economic Resources with regard to improving the general welfare of the citizens of the State through the wise use and conservation of its soil, water, mineral and land resources; and

(b) the Council shall consider and advise the Secretary of Natural and Economic Resources upon any matter that the Secretary may refer to it.

**Sec. 46. *Earth Resources Council; members, selection, quorum, compensation.***—The Earth Resources Council of the Department of Natural and Economic Resources shall consist of ten members appointed by the Governor. The composition of the Council shall be as follows: one representative of commercial oil interests, one official of a regional Council of Government, one land use planner, one land surveyor, one representative of the mining industry, one geologist, one representative of the construction industry, one engineer, and two representatives of nongovernmental conservation interests.

The Governor shall designate one member of the Council as chairman to serve in such capacity at the pleasure of the Governor.

Of the initial members of the Council, six shall be appointed by the Governor for terms of two years and four shall be appointed for terms of four years. At the end of the respective terms of office of the initial members of the Council, their successors shall be appointed for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 47. *Regular and special meetings.***—The Earth Resources Advisory Council shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least a majority of the members.

**Sec. 48. *The Community and Economic Development Council; creation, powers, and duties.***—There is hereby created the Community and Economic Development Council of the Department of Natural and Economic Resources. The Community and Economic Development Council shall have the following functions and duties:

(a) to advise the Secretary of Natural and Economic Resources with respect to the attraction of new commerce and industry, expansion of the existing commerce and industry and the creation of new and better job opportunities for the people of the State;

(b) to advise the Secretary of Natural and Economic Resources with respect to the type and effectiveness of planning and management services provided to local government;

(c) to advise the Secretary of Natural and Economic Resources with respect to the development of scientific and technological industry within the State;

(d) to advise the Secretary of Natural and Economic Resources with respect to the orderly development of the travel industry within the State; and

(e) the Council shall consider and advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it.

**Sec. 49. *The Community and Economic Development Council; members, selection, quorum, compensation.***—The Community and Economic Development Council of the Department of Natural and Economic Resources shall consist of eleven members appointed by the Governor. The composition of the Council shall be as follows: one member who shall be a local government official, one member who shall be the Executive Secretary of the League of Municipalities, one who shall be the Executive Secretary of the County Commissioners Association, one representative of the tourist industry, one representative of a scientific and technological industry, one member who shall be the president of the North Carolina Industrial Developers Association, one member who shall represent industry at large, one member who shall represent labor, and three members at large, one who shall be a resident of the eastern section, one of the western section and one of the Piedmont section of the State of North Carolina.

The Governor shall designate one member of the Council to serve as chairman at the pleasure of the Governor.

The initial members of the Council other than those members serving in an ex officio capacity shall be appointed to serve for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 50. *Regular and special meetings.***—The Community and Economic Development Council shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least a majority of the members.

**Sec. 51. *Community and Economic Development Council; conforming changes.***—(a) (1) Whenever the words “North Carolina Department of Local Affairs” or “Department” when referring to the North Carolina Department of Local Affairs are used or appear in any statute or law of this State the same shall be deleted and the words “Department of Natural and Economic Resources”

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shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(2) Whenever the words "Director of Local Affairs" or "Director" when referring to the Director of Local Affairs are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Natural and Economic Resources" or the word "Secretary" as appropriate shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) The first definition of G.S. 143-320 shall be rewritten to read as follows, "'Council' means the Community and Economic Development Council."

(2) The words "'Division' means a division of the North Carolina Department of Local Affairs" shall be deleted from G.S. 143-320.

(3) The words "effective July 1, 1969" shall be deleted from line 4 of G.S. 143-326(c).

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-319; G.S. 143-321; G.S. 143-322; G.S. 143-324; G.S. 143-325(a); G.S. 143-325(c); and G.S. 143-327.

**Sec. 52. *The Forestry Council; creation, powers, duties.***—There is hereby created the Forestry Council of the Department of Natural and Economic Resources. The Forestry Council shall have the following functions and duties:

(a) to advise the Secretary of Natural and Economic Resources with respect to all matters concerning the conservation and development of both state-owned and privately-owned forests in the State, including, the promotion of a more profitable use of forest lands;

(b) to undertake such studies and make such reports to the Secretary of Natural and Economic Resources as the Secretary may direct; and

(c) to advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it.

**Sec. 53. *The Forestry Council; members, selection, quorum, compensation.***—The Forestry Advisory Council of the Department of Natural and Economic Resources shall consist of eleven members appointed by the Governor. The composition of the Council shall be as follows: three members shall represent wood-using industries; two members shall represent farmers or other private, nonindustrial forest landowners; two members shall represent forestry interests not primarily concerned with the production of commercial timber, those interests to include but not be limited to watershed protection and environmental protection; one member who shall represent forestry organizations; one member who shall represent banking and financial interests; and two members who shall represent the general public.

The Governor shall designate one member of the Council to serve as chairman at the pleasure of the Governor.

The initial members of the Council shall be appointed as follows: five members for two-year terms and six members for four-year terms. At the end of the respective terms of office of the initial members of the Council, the appointments of all members shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the

Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 54. *Regular and special meetings.***—The Forestry Council shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least a majority of the members.

**Sec. 55. *The Parks and Recreation Council; creation, powers and duties.***—There is hereby created the Parks and Recreation Council for the Department of Natural and Economic Resources. The Parks and Recreation Council shall have the following functions and duties:

(a) to advise the Secretary of Natural and Economic Resources with respect to the promotion, development and administration of the State's recreation and park system;

(b) to advise the Secretary of Natural and Economic Resources with respect to the quality and quantity of the total recreation services provided to the citizens of the State and out-of-state visitors by governmental units, private agencies and commercial organizations;

(c) to advise the Secretary of Natural and Economic Resources with respect to the development and maintenance of a feasible and effective action program to assure an adequate environment for satisfying recreation experiences;

(d) to educate and inform the citizens of the State with respect to both the needs and the opportunities of the recreation and park system; and

(e) the Council shall consider and advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it.

**Sec. 56. *The Parks and Recreation Council; members, selection, quorum, compensation.***—The Parks and Recreation Council shall be composed of 13 members appointed by the Governor. Four of the members must reside in the western part of the State, four must reside in the Piedmont, and four must reside in the eastern part of the State. The composition of the Council shall be as follows: one person who is an active professor in the area of parks and recreation; one person who is an active professor of biology; one local government official who is involved in recreation planning and is aware of the recreational needs of communities; one person who represents private recreational interests; one person who is the Chairman of the Zoological Park Council; one person who is the Chairman of one of the Local Federal Reservoir Advisory Committees; and six persons who are citizens of the State and have both knowledge and interest in parks and recreation management. The President of the North Carolina Recreation and Parks Society, Inc. shall serve as ex officio member of the Council.

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The Governor shall designate one member of the Council to serve as chairman at his pleasure.

The members of the Council shall be appointed to terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 57. *Regular and special meetings.***—The Parks and Recreation Council shall meet at least semi-annually and may hold special meetings at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members.

**Sec. 58. *North Carolina Water Safety Council; creation, powers and duties.***—There is hereby created the North Carolina Water Safety Council of the Department of Natural and Economic Resources. The North Carolina Water Safety Council shall have the following functions and duties:

(a) to advise the Wildlife Resources Commission with respect to the activities of the various public and private agencies, organizations, corporations, and individuals with responsibilities or interests relevant to the maintenance of an effective program of water safety in North Carolina; and

(b) the Council shall consider and advise the Wildlife Resources Commission upon any matter that the Commission may refer to it.

**Sec. 59. *The North Carolina Water Safety Council; members, selection, quorum, compensation.***—The North Carolina Water Safety Council shall consist of fifteen members appointed by the Governor. They must represent the various viewpoints and interests respecting water safety that exist within the State.

The Governor shall designate one member of the Council to serve as chairman at his pleasure. The Council shall annually elect one member as vice-chairman to serve in the absence of the chairman.

In order to achieve staggered terms, the Governor shall initially appoint eight members for terms of two years and seven members for terms of four years. After the initial appointments, subsequent appointments of all members of the Council shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The members of the Council shall receive per diem necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of their business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 60. *Regular and special meetings.***—The Council shall meet at least semi-annually and may hold special meetings at any time and place at the call of the chairman or upon the written request of at least ten members.

**Sec. 61. *The Air Quality Council; creation, powers and duties.***—There is hereby created the Air Quality Council of the Department of Natural and Economic Resources. The Air Quality Council shall have the following functions and duties:

(1) to advise the Environmental Management Commission in the development of rules, regulations and quality standards for air; and

(2) to consider and to advise the Commission upon any matter the Commission may refer to it.

**Sec. 62. *The Air Quality Council; members, selection, quorum, compensation.***—The Air Quality Council of the Department of Natural and Economic Resources shall consist of nine members appointed by the Governor. The composition of the Council shall be as follows: one registered professional engineer knowledgeable in matters of air pollution; one representative from municipal government; one representative from county government; one representative of public health; two representatives from industry providing they are from different industries; one representative of agriculture; one licensed physician knowledgeable in the health aspects of air pollution; and one practicing biologist knowledgeable in the principles of air quality management.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

In order to achieve staggered terms, the Governor shall initially appoint three members for terms of two years, three members for terms of four years, and three members for terms of six years. At the end of the respective terms of office of the initial members, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of their business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 63. *Regular and special meetings.***—The Council shall meet at least semi-annually and may hold special meetings at any time and place at the call of the chairman or upon the written request of at least five members.

**Sec. 64. *The Water Quality Council; creation, powers and duties.***—There is hereby created the Water Quality Council of the Department of Natural and Economic Resources. The Water Quality Council shall have the following functions and duties:

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(1) to advise the Environmental Management Commission in the development of rules, regulations and quality standards for water; and

(2) to consider and to advise the Commission upon any matter the Commission may refer to it.

**Sec. 65. *The Water Quality Council; members, selection, quorum, compensation.***—The Water Quality Council of the Department of Natural and Economic Resources shall consist of nine members appointed by the Governor. The composition of the Council shall be as follows: one registered professional engineer knowledgeable in matters of water pollution; one representative from municipal government; one representative from county government; one representative of public health; two representatives from industry providing they are from different industries; one representative of agriculture; one licensed physician knowledgeable in the health aspects of water pollution, and one practicing biologist knowledgeable in the principles of water quality management.

The Governor shall designate one member of the Council to serve as chairman at his pleasure.

In order to achieve staggered terms, the Governor shall initially appoint three members for terms of two years, three members for terms of four years, and three members for terms of six years. At the end of the respective terms of office of the initial members of the Council, their successors shall be appointed for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office for misfeasance, malfeasance or nonfeasance in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of their business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 66. *North Carolina National Park, Parkway and Forests Development Council; creation, powers and duties.***—There is hereby created the North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources. The North Carolina National Park, Parkway and Forests Development Council shall have the following functions and duties:

The Council shall endeavor to promote the development of that part of the Smoky Mountains National Park lying in North Carolina, the completion and development of the Blue Ridge Parkway in North Carolina, the development of the Nantahala and Pisgah national forests, and the development of other recreational areas in that part of North Carolina immediately affected by the Great Smoky Mountains National Park, the Blue Ridge Parkway or the Pisgah or Nantahala national forests. It shall be the duty of the Council to study the development of these areas and to recommend a policy that will promote the development of the entire area generally designated as the mountain section of North Carolina, with particular emphasis upon the development of the scenic

and recreational resources of the region, and the encouragement of the location of tourist facilities along lines designed to develop to the fullest these resources in the mountain section. It shall confer with the various departments, agencies, commissioners and officials of the federal government and governments of adjoining states in connection with the development of the federal areas and projects named in this section. It shall also advise and confer with the various officials, agencies or departments of the State of North Carolina that may be directly or indirectly concerned in the development of the resources of these areas. It shall also advise and confer with the various interested individuals, organizations or agencies that are interested in developing this area and shall use its facilities and efforts in formulating, developing and carrying out overall programs for the development of the area as a whole. It shall study the need for additional entrances to the Great Smoky Mountains National Park, together with the need for additional highway approaches and connections, and its findings in this connection shall be filed as recommendations with the National Park Service of the federal government, and the North Carolina Department of Transportation through the Department of Natural and Economic Resources. The Council shall provide information to the Department of Natural and Economic Resources to be included in the department's annual report. It shall also file any suggestions or recommendations as it deems proper with the Department of Natural and Economic Resources in respect to such matters as might be of interest to or affect any department of State government. It shall advise the secretary of the department upon any matter the secretary may refer to it.

**Sec. 67. *North Carolina National Park, Parkway and Forests Development Council; members, selection, quorum, compensation.***—The North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows: one member shall be a resident of Buncombe County, one member a resident of Haywood County, one member a resident of Jackson County, one member a resident of Swain County, three members residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests. The initial members of the Council shall be the appointed members of the National Park, Parkway and Forests Development Commission who shall serve for a period equal to the remainder of their current terms on the National Park, Parkway and Forests Development Commission. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The current officers of the North Carolina National Park, Parkway and Forests Development Commission shall continue to serve in that capacity for the remainder of their current terms. Thereafter, the Council shall elect a chairman, a vice-chairman and a secretary. The chairman and the vice-chairman shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year,

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but may be re-elected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and Section 15 of the Executive Organization Act of 1973.

Five members of the Council shall constitute a quorum for the transaction of business.

**Sec. 68. *Regular and special meetings.***—The North Carolina National Park, Parkway and Forests Development Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the chairman or upon written request of at least a majority of the members.

**Sec. 69. *Commercial and Sports Fisheries Committee; creation, powers and duties.***—There is hereby created the Commercial and Sports Fisheries Committee of the Department of Natural and Economic Resources. The Commercial and Sports Fisheries Committee shall have the following functions and duties:

(1) to study all matters and activities in connection with the conservation of marine and estuarine resources and make recommendations to the Secretary of Natural and Economic Resources;

(2) to act as a liaison group between sports and commercial fishermen, and others interested in the beneficial utilization of the marine and estuarine resources, and the Secretary of Natural and Economic Resources;

(3) the Committee shall consider and advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it; and

(4) the Committee may originate its own studies on various matters within the scope of its interests and report on such matters to the public or to the agency or official appropriately concerned.

**Sec. 70. *The Commercial and Sports Fisheries Committee; members, selection, quorum, compensation.***—The Commercial and Sports Fisheries Committee shall consist of nine members appointed by the Governor. The composition of the Committee shall be as follows: three members who are sports fishermen, three members who are commercial fishermen, and three members who are professional scientists with backgrounds relevant to the conservation of marine and estuarine resources.

The Governor shall designate one member of the Committee to serve as chairman at his pleasure.

The initial members of the Committee shall be appointed as follows: four members for two years and five members for four years. At the end of the respective terms of office of the initial members of the Committee, appointments shall be made for four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 71. *Regular and special meetings.***—The Commercial and Sports Fisheries Committee shall meet at least semi-annually and may hold special meetings at any time or place within the State at the call of the chairman or upon the written request of at least a majority of the members.

**Sec. 72. *Commercial and Sports Fisheries Committee; conforming changes.***—The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 113-241; G.S. 113-242; G.S. 113-243; G.S. 113-244; G.S. 113-245.

**Sec. 73. *The John H. Kerr Reservoir Committee; creation, powers and duties.***—There is hereby created the John H. Kerr Reservoir Committee for the Department of Natural and Economic Resources. The John H. Kerr Reservoir Committee shall have the following functions and duties:

(1) to study the development of the John H. Kerr area and recommend to the Secretary of Natural and Economic Resources policies and programs that will promote the development of this area to the fullest extent possible for the benefit and enjoyment of the citizens of North Carolina and of the nation;

(2) to recommend to the Secretary of Natural and Economic Resources reasonable rules and regulations for the use by the public of all real and personal property under jurisdiction of the John H. Kerr Reservoir;

(3) to consider and advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it; and

(4) to stimulate, inform and educate the citizens of the State about the needs as well as the opportunities of the John H. Kerr Reservoir.

**Sec. 74. *The John H. Kerr Reservoir Committee; members, selection, quorum, compensation.***—The John H. Kerr Reservoir Committee shall be composed of nine members appointed by the Governor. Six of these shall be residents of three counties that are contiguous to the John H. Kerr Reservoir: two from Vance County; two from Granville County; and two from Warren County. The remaining three members may be appointed at large.

The Governor shall designate one member of the Committee to serve as chairman at his pleasure.

The initial members of the Committee shall be the appointed members of the John H. Kerr Reservoir Development Commission who shall serve for a period equal to the remainder of their current terms on the John H. Kerr Reservoir Development Commission, five of whose terms expire July 26, 1973, three of whose terms expire July 26, 1975, and one of whose term expires July 26, 1977. At the end of the respective terms of office of the initial members of the Committee, the appointments of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

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Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 75. *Regular and special meetings.***—The John H. Kerr Reservoir Committee shall meet at least semiannually and may hold special meetings at any time, any place, within the State at the call of the chairman or upon the written request of at least a majority of the members.

**Sec. 76. *Federal Reservoir Local Committee; conforming changes.***—(a) Whenever the words “John H. Kerr Reservoir Development Commission” are used or appear in any statute or law of this State, the same shall be deleted and the words “Department of Natural and Economic Resources” shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(b) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-284; G.S. 143-285; G.S. 143-286; G.S. 143-287; G.S. 143-288; G.S. 143-290; and G.S. 143-290.1.

**Sec. 77. *Science and Technology Committee; creation, powers and duties.***—There is hereby created the Science and Technology Committee of the Department of Natural and Economic Resources. The Committee shall have the following functions and duties:

(1) The Committee shall be responsible for the allocation of funds for, but not necessarily limited to, such objects as grants for scientific engineering or technological projects, the support of scientific or research personnel, the purchase of equipment or supplies, the construction or modification of facilities, and the employment of consultants. In general, such allocations will be made for the support of activities, equipment and facilities in the space and associated science fields relevant to the objectives of the Committee which are associated with the existing public or private agencies in the State, such as the public and private institutions of higher education, the Research Triangle Institute and similar entities.

(2) The Committee’s activities shall be centered in the Research Triangle, and will be closely allied to the Research Triangle Institute.

(3) The Committee shall encourage liaison between industry, educational institutions, the Research Triangle of North Carolina, and federal agencies, such as the National Aeronautics and Space Administration, the Atomic Energy Commission, the Department of Defense, the National Science Foundation, and the National Institute of Health.

(4) The Committee shall hold regular meetings to inform industry of the possible space and nuclear applications which can accelerate the growth of the North Carolina industrial economy.

(5) The Committee shall encourage the cooperation of the State’s industrial community, to the end that industry shall assist in screening and identifying research results for possible industrial applications.

(6) The Committee will from time to time, arrange to have seminars, short courses, visits and practical demonstrations held to foster interest in the results of research as a means of achieving economic progress.

(7) To advise the Secretary of Natural and Economic Resources upon any matter the Secretary might refer to it.

**Sec. 78. *Science and Technology Committee; members, selection, quorum, compensation.***—The Science and Technology Committee shall consist of fifteen members appointed by the Governor as follows: two members shall be from the University of North Carolina at Chapel Hill; two members shall be from North Carolina State University at Raleigh; two members shall be from Duke University; three members shall be from the membership of the General Assembly; three members shall be from industry within the State; one member shall be appointed upon nomination of the Executive Committee of the Board of the Research Triangle Institute; and two members shall be appointed by the Governor at large. The members appointed from the University of North Carolina at Chapel Hill and from North Carolina State University at Raleigh shall be nominated by the President of the University of North Carolina System. The members appointed from Duke University shall be nominated by the President of Duke University. The initial members of the Science and Technology Committee appointed by the Governor shall include the members of the Board of Science and Technology who shall serve for a period equal to the remainder of their current terms on the Board of Science and Technology, six of whose appointments expire June 30, 1973, and eight of whose appointments expire June 30, 1975. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be for terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Committee to serve as chairman at his pleasure.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Committee shall constitute a quorum for the transaction of business.

All clerical and other services required by the Committee shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 79. *Science and Technology Committee; conforming changes.***—The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-378; G.S. 143-379; G.S. 143-380; G.S. 143-381; G.S. 143-382; G.S. 143-383.

**Sec. 80. *North Carolina Trails Committee; creation, powers and duties.***—There is hereby created the North Carolina Trails Committee of the Department of Natural and Economic Resources. The Committee shall have the following functions and duties:

(a) To meet not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of G.S. 113A-88.

(b) To coordinate trail development among local governments, and to assist local governments in the formation of their trail plans and advise the Department of its findings.

(c) To advise the Secretary of trail needs and potentials pursuant to G.S. 113A-88.

**Sec. 81. *North Carolina Trails Committee; members, selection, quorum, compensation.***—The North Carolina Trails Committee shall consist of seven members appointed by the Secretary of Natural and Economic Resources. Two members shall be from the mountain section, two from the piedmont section, two from the coastal plain, and one at large. They shall as much as possible represent various trail users.

The initial members of the North Carolina Trails Committee shall be the members of the current North Carolina Trails Committee who shall serve for a period equal to the remainder of their current term on the North Carolina Trails Committee. At the end of the respective terms of office of the initial members of the Committee, the appointment of their successors shall be for staggered terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Secretary of Natural and Economic Resources shall designate a member of the Committee to serve as chairman at the pleasure of the Governor.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and Section 15 of the Executive Organization Act of 1973.

**Sec. 82. *North Carolina Trails Committee; conforming changes.***—G.S. 113A-88 is hereby amended by deleting subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c) respectively.

**Sec. 83. *North Carolina Zoological Park Council; creation, powers and duties.***—There is hereby created the North Carolina Zoological Park Council of the Department of Natural and Economic Resources. The North Carolina Zoological [H-Park] Council shall have the following functions and duties:

(a) to advise the Secretary on the basic concepts of and for the Zoological Park, approve conceptual plans for the Zoological Park and its building;

(b) to advise on the construction, furnishings, equipment and operations of the North Carolina Zoological Park;

(c) to recommend programs to promote public appreciation of the North Carolina Zoological Park;

(d) to disseminate information on animals and the park as deemed necessary;

(e) to develop effective public support of the North Carolina Zoological Park through whatever means are desirable and necessary;

(f) to solicit financial and material support from various private sources within and without the State of North Carolina; and

(g) to advise the Secretary of Natural and Economic Resources upon any matter the Secretary may refer to it.

**Sec. 84.** *North Carolina Zoological Park Council; members, selection, quorum, compensation.*—The North Carolina Zoological Park Council of the Department of Natural and Economic Resources shall consist of fifteen members appointed by the Governor.

The initial members of the Council shall be the members of the Board of Directors of the North Carolina Zoo Authority who shall serve for a period equal to the remainder of their current terms on the Board of Directors of the North Carolina Zoological Authority, all of whose terms expire July 15, 1975. At the end of the respective terms of office of the initial members of the Council, the Governor, to achieve staggered terms, shall appoint five members for terms of two years, five members for terms of four years and five members for terms of six years. Thereafter, the appointment of their successors shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of Section 16 of the Executive Organization Act of 1973.

The Governor shall designate a member of the Council to serve as chairman at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Natural and Economic Resources.

**Sec. 85.** *North Carolina Zoological Park Council; conforming changes.*—(a) The following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 143-177.1 is hereby rewritten to read:

“§ 143-177.1. *North Carolina Zoological Park Fund.*—All gifts made to the North Carolina Zoological Park for the purposes of this Article shall be exempt from every form of taxation including, but not by the way of limitation, ad valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any property acquired under the provisions of this Article shall be deposited in the North Carolina State Treasury and shall be credited to the North Carolina Zoological Park.”

(2) G.S. 143-177.3 is hereby rewritten to read:

“§ 143-177.3. *Sources of funds.*—It is the intent of this Article that the funds for the creation, establishment, construction, operation and maintenance of the North Carolina Zoological Park shall be obtained primarily from private sources; however, the Council under the supervision and approval and with the assistance of the Secretary of Natural and Economic Resources is hereby authorized to receive and expend such funds as may from time to time become available by appropriation or otherwise from the State of North Carolina; provided, that the North Carolina Zoological Park Council shall not in any manner pledge the faith and credit of the State of North Carolina for any of its purposes.”

(b) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 143-171; G.S. 143-172; G.S. 143-173; G.S. 143-174; G.S. 143-175; G.S. 143-176; and G.S. 143-176.1.

**Sec. 86.** *Department of Natural and Economic Resources; conforming changes.*

(a) In addition to the foregoing, the following amendments to the General Statutes of North Carolina shall be made:

(1) The second sentence of G.S. 113-254 shall be rewritten to read as follows: "The first commissioner from the State of North Carolina shall be the Secretary of Natural and Economic Resources, ex officio, and the term of such ex officio commissioner shall terminate at the time he ceases to hold such office, and his successor as commissioner shall be his successor as Secretary of Natural and Economic Resources."

(2) Whenever the words "North Carolina Department of Conservation and Development" or "Department of Conservation and Development" or "Department" when referring to the North Carolina Department of Conservation and Development are used or appear in any statute or law of this State with the exception of Article 7 of Chapter 113, the same shall be deleted and the words "Department of Natural and Economic Resources" or "Department", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "Director of the Department of Conservation and Development" or "Director of Conservation and Development" or "Director" when referring to the Director of the Department of Conservation and Development are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Natural and Economic Resources" or "Secretary", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words "State Forester" are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Natural and Economic Resources" or "Secretary", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(5) Whenever the words "North Carolina Forest Service" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Natural and Economic Resources" or "Department", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(6) Whenever the words "Petroleum Division" or "the Division" or "Division" when referring to the "Petroleum Division" are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Natural and Economic Resources" or "Department", as appropriate, shall be inserted in lieu thereof unless otherwise provided for in the Executive Organization Act of 1973.

(7) G.S. 143B-2 is hereby amended by adding the following subsection: "6. Department of Natural and Economic Resources."

(8) G.S. 143B-6 is hereby amended by adding the following subsection: "6. Department of Natural and Economic Resources."

(b) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 102-14; G.S. 113-28.13; G.S. 113-28.14; G.S. 113-28.15;

G.S. 113-28.16; G.S. 113-251(b); G.S. 113-251(c); G.S. 113-383; G.S. 113-384; G.S. 113-385; G.S. 113-386; G.S. 143-255; G.S. 143-256; G.S. 143-257; G.S. 143-259; G.S. 143-260; and Article 12 of Chapter 143A of the General Statutes of North Carolina being sections G.S. 143A-109 through G.S. 143A-129.

**Sec. 87.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 1806                      CHAPTER 1263**

**AN ACT TO AMEND G.S. 160A-282 BY AUTHORIZING THE ESTABLISHMENT OF AN AUXILIARY LAW ENFORCEMENT AGENCY BY CITIES AND COUNTIES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-282 is hereby rewritten to read as follows:

“§ 160A-282. *Auxiliary Law Enforcement Personnel, Workmen’s Compensation Benefits.*—(a) A city, by enactment of an ordinance, may provide that, while undergoing official training and while performing duties on behalf of the city pursuant to orders or instructions of the chief of police of the city, auxiliary law enforcement personnel shall be entitled to benefits under the North Carolina Workmen’s Compensation Act and to any fringe benefits for which such volunteer personnel qualify.

(b) The board of commissioners of any county may provide that persons who are deputized by the sheriff of the county as special deputy sheriffs or persons who are serving as volunteer law enforcement officers at the request of the sheriff and under his authority, while undergoing official training and while performing duties on behalf of the county pursuant to orders or instructions of the sheriff, shall be entitled to benefits under the North Carolina Workmen’s Compensation Act and to any fringe benefits for which such persons qualify.”

**Sec. 2.** Provided however that in the County of Columbus, in lieu of the procedure set forth in Section 1, the Columbus County Public Safety Commission upon the application and upon the approval of the Chief of the Columbus County Police may upon the enactment of a resolution provide for the establishment of an auxiliary law enforcement agency in Columbus County made up of volunteer members as provided in Section 1. In Columbus County the Chief of County Police shall act in lieu of the Sheriff as provided in Section 1 but cities in Columbus County shall have the authority provided for in Section 1.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 2040

## CHAPTER 1264

## AN ACT TO CLASSIFY PROPERTY OF VETERANS, MASONIC, AND OTHER FRATERNAL AND CHARITABLE ORDERS AND ORGANIZATIONS FOR AD VALOREM TAX PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-275, as the same appears in the 1973 Supplement to the 1972 Replacement Volume 2D of the General Statutes of North Carolina, is hereby amended by adding at the end thereof new subdivisions (15), (16), (17) and (18), to read as follows:

“(15) Real and personal property belonging to the American Legion, Veterans of Foreign Wars, Disabled American Veterans, or to any similar veterans organizations chartered by the Congress of the United States or organized and operated on a statewide or nationwide basis, and any post or local organization thereof, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient and normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subsection’s requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.

(16) Real and personal property belonging to the Grand Lodge of Ancient, Free and Accepted Masons of North Carolina, the Prince Hall Masonic Grand Lodge of North Carolina, their subordinate lodges and appendant bodies including the Ancient and Arabic Order Nobles of the Mystic Shrine, and the Ancient Egyptian Order Nobles of the Mystic Shrine, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subsection’s requirements is used for a purpose that would require that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value, shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section.

(17) Real and personal property belonging to the Loyal Order of Moose, The Benevolent and Protective Order of Elks, The Knights of Pythias, The Odd Fellows and similar fraternal or civic orders and organizations operated for nonprofit benevolent, patriotic, historical, charitable, or civic purposes, when used exclusively for meeting or lodge purposes by said organization, together with such additional adjacent real property as may be necessary for the convenient normal use of the buildings thereon. Notwithstanding the exclusive-use requirement hereinabove established, if a part of a property that otherwise meets this subsection’s requirements is used for a purpose that would require

that it not be listed, appraised, assessed or taxed if the entire property were so used, that part, according to its value shall not be listed, appraised, assessed or taxed. The fact that a building or facility is incidentally available to and patronized by the general public, so far as there is no material amount of business or patronage with the general public, shall not defeat the classification granted by this section. Nothing in this act shall be construed so as to include social fraternities, sororities, and similar college, university, or high school organizations in the classification for exclusion from ad valorem taxes.

(18) Real and personal property belonging to Goodwill Industries and other charitable organizations organized for the training and rehabilitation of disabled persons when used exclusively for training and rehabilitation, including commercial activities directly related to such training and rehabilitation.”

**Sec. 2.** If any provision of this act be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect the remaining provisions of this act which can be given effect without the unconstitutional or invalid provision, and to that end the provisions of this act are declared to be severable.

**Sec. 3.** The organizations entitled to the exclusion herein provided shall be subject to the provisions of G.S. 105-282.1(a)(3) simplifying the procedure for filing applications for exemption or exclusion from property taxes.

**Sec. 4.** This act shall be effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 2095

**CHAPTER 1265**

**AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF ROCKINGHAM, RICHMOND COUNTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the City of Rockingham is hereby revised and consolidated to read as follows:

“The Charter of the City of Rockingham.

“Article I. Incorporation and Corporate Powers.

“*Sec. 1.1. Incorporation and general powers.* The Town of Rockingham shall continue to be a body politic and corporate under the name of the ‘City of Rockingham’, and shall continue to be vested with all property and rights which now belong to the city; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold or in any manner conveyed or dedicated to it, or otherwise acquired by it, and may from time to time hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

“*Sec. 1.2. Exercise of powers.* All powers, functions, rights, privileges and immunities of the city, its officers, agencies, or employees, shall be carried into execution as provided by this Charter, or if this Charter makes no provisions, as provided by the general laws of North Carolina pertaining to municipal

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corporations, their officers, agencies or employees, and as provided by ordinance or resolution of the city council.

### “Article II. Corporate Boundaries.

“*Sec. 2.1. Existing city boundaries.* The boundaries of the City of Rockingham are set out on a map entitled ‘Boundary Map of the City of Rockingham, North Carolina’. The map is maintained in the office of the City Clerk, as required by G.S. 160A-22.

### “Article III. Charter Amendments.

“*Sec. 3.1. Incorporation of amendments.* (a) As soon as possible after the adjournment of each General Assembly, the city attorney shall present to the city council copies of all local laws relating to the City of Rockingham that were enacted by such General Assembly, whether or not amending in terms this Charter, which he recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of such laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be necessary to implement the purpose of this article.

(b) After considering the recommendations of the city attorney, the city council may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the city to maintain at all times a current and accurate city Charter, organized in clear and orderly fashion, and embracing all pertinent local laws relating to the city.

### “Article IV. Mayor and City Council.

“*Sec. 4.1. Composition of the city council.* (a) The qualified voters of the City of Rockingham shall at each regular municipal election elect a mayor and members of the city council as hereinafter provided.

(b) The mayor and the members of the city council shall be elected from the city at large.

(c) The person receiving the highest number of votes for the office of mayor shall be declared elected whose term shall be for a period of two years.

(d) The mayor shall take the required oath of office before the city clerk to perform faithfully the duties of the office of mayor and as required by the general laws of North Carolina.

(e) The mayor shall be the official head of the city and shall preside at all meetings of the city council. In the absence or the disability of the mayor, the mayor pro tem shall perform his duties. In the absence or disability of both the mayor and the mayor pro tem the council shall designate one of its members to perform such duties. In the event of the resignation of the mayor the members of the council shall by a majority vote elect a mayor as provided by the General Statutes of the State of North Carolina.

(f) The city council shall consist of five (5) members. In the regular municipal election on the first Tuesday after the first Monday of November, 1975, two candidates shall be elected for four-year terms, and one candidate shall be elected for a two-year term. In the regular municipal election on the first Tuesday after the first Monday of November, 1977, and each regular municipal election held biennially thereafter, two candidates shall be elected for four-year terms, and one candidate for a two-year term. Members shall serve until their successors are elected and qualify. Candidates for election as members of the city council shall announce, at the time of filing notice of candidacy, the length of term for which they are a candidate and shall be elected

only for the term for which they have announced. In each general election, the two candidates receiving the highest number of votes for the four-year terms, and the one candidate receiving the highest number of votes for the two-year term shall be declared elected for these respective terms.

*“Sec. 4.2. Organization of city council; oaths of office.* The city council shall at 8:00 o'clock P. M. at the regular meeting in December following the date of their election meet and organize for the transaction of official municipal business. Before entering upon their offices the councilmen shall severally take the required oath before the city clerk to perform faithfully the duties of their respective offices. Any elected councilman not present at the organization meeting may take the oath of office within thirty (30) days, and the failure on the part of any elected councilman to take said oath within thirty (30) days forfeits his right to the office and the council shall have the authority to fill the vacancy.

*“Sec. 4.3. Qualifications; terms; vacancies.* (a) No person shall be eligible to be elected to the office of mayor or to serve on the city council unless he is a qualified voter under the election laws as prescribed by the General Statutes of the State of North Carolina, and shall have resided within the corporate limits of the City of Rockingham for thirty (30) days immediately preceding the regular municipal election.

(b) If any elected council member shall refuse to be qualified or if there is any vacancy in the office of councilman after election and qualification, or if any councilman is unable to discharge the duties of his office, the remaining members of the council shall elect some person to serve as councilman in the place of the member causing the vacancy until the next regular municipal election. At the next regular municipal election following the creation of the vacancy, candidates for the vacated office shall file in the manner herein provided for candidates seeking regular terms on the council, but shall file only for the remainder of the unexpired term of the member causing the vacancy. The person receiving the highest number of votes for the election to the office of the person causing the vacancy shall be elected for the remainder of the unexpired term, and until his successor is elected and qualified.

*“Sec. 4.4. Election of mayor pro tem.* (a) The mayor pro tem shall be elected by the city council from among its own members and he shall hold such office for the term for which he has been elected to the council. In the absence, disability, or resignation of the mayor, the mayor pro tem shall, to the extent permitted by the General Statutes of the State of North Carolina perform the mayor's duties, and until a mayor has been selected as provided in Article IV, Section 4.1(e) of this Charter.

*“Sec. 4.5. Rules of council; journal of proceedings.* The city council shall determine its own rules and order of business, and shall cause to be kept a journal of its proceedings.

*“Sec. 4.6. Council members to hold no other offices.* Neither the mayor nor any member of the city council shall hold any other office or position of trust, profit, or honor under the city government.

*“Sec. 4.7. Meetings of the city council.* (a) The city council shall fix suitable times for its regular meetings, which shall be at least as often as once monthly. The mayor, or any two council members may at any time call a special meeting by signing a written notice stating the time of the meeting, to be delivered to each member or left at his usual dwelling place at least six hours before the

meeting. Meetings of the council may also be held at any time when all members are present and consent thereto. Any business may be transacted at a special meeting that might be transacted at a regular meeting.

(b) All meetings of the city council shall be public meetings and as prescribed by the General Statutes of the State of North Carolina.

“*Sec. 4.8. Quorum; votes.* (a) A majority of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members.

(b) The affirmative vote of a majority of the council members shall be necessary to adopt any ordinance or to authorize the expenditure of money. All other matters voted upon shall be decided by a majority vote of the council members present.

(c) No member of the council shall be excused from voting on any matter except a matter involving his own financial interest or official conduct.

“*Sec. 4.9. Exercise of city powers.* (a) The city council shall direct the exercise of all of the powers of the city, except as otherwise provided by this Charter.

(b) In addition to the specific powers herein conferred, and to other powers conferred upon it by general law, the city council may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this Charter, as may be necessary or appropriate for the preservation and promotion of the health, safety, comfort, convenience, good order, better government, and the general welfare of the city and its inhabitants.

“*Sec. 4.10. Compensation for the mayor and council.* The mayor shall receive for his services such salary as the council shall determine from time to time. The members of the council may establish a salary for its members. The salary of the mayor and the salaries of the council may be reduced but no increase therein shall be made to take effect during the term in which the increase is voted and such increase shall apply only to the terms of the members taking office after the next subsequent election.

#### “Article V. Nomination and Election Procedure.

“*Sec. 5.1. Regular municipal elections.* Elections shall be held biennially on Tuesday after the first Monday in November, beginning in 1975, and shall be by the nonpartisan plurality election method. All elections and referendums of the City of Rockingham shall be held and conducted as provided by the applicable General Statutes of North Carolina.

“*Sec. 5.2. Richmond County Board of Elections to conduct elections.* All regular municipal elections and special elections of the City of Rockingham shall be held and conducted by the Richmond County Board of Elections as provided for in the General Statutes. Voting machines of any type approved by the State Board of Elections may be used in all elections.

“*Sec. 5.3. Special elections.* The city council shall have power to call special elections as might be permitted by law.

“*Sec. 5.4. Election precincts.* For the purpose of municipal elections the City of Rockingham shall be divided into such precincts as the city council may from time to time designate by proper resolution. The existing precinct and polling place shall be continued as such until changed by the council.

“*Sec. 5.5. Registration by voters.* The Richmond County Board of Elections shall be in charge of the registration of voters and the registration of voters for all city elections under the provisions of G.S. 163-54 through 59 and other related General Statutes.

“Sec. 5.6. *Notice of candidacy.* Each person offering himself as a candidate for election to any municipal office shall do so by filing a notice of candidacy with the Richmond County Board of Elections in the following form, inserting the words in parentheses when appropriate:

‘Date \_\_\_\_\_

I hereby file notice that I am a candidate for election to the office of \_\_\_\_\_, \_\_\_\_\_ (4-year or 2-year term if candidate \_\_\_\_\_), in the regular municipal election to be held in \_\_\_\_\_ for councilman) the City of Rockingham on \_\_\_\_\_, 19\_\_\_\_.

Signed \_\_\_\_\_

Name of Candidate

Witness: \_\_\_\_\_

For the Board of Elections. ‘

Candidates may file their notices of candidacy with the Richmond County Board of Elections at any time after 12:00 Noon on the Friday preceding the eighth Saturday and before 12:00 Noon on Friday preceding the fourth Saturday before the municipal election. At the time of filing a notice of candidacy, each candidate shall pay to the Board of Elections the sum of \$10.00.

“Sec. 5.7. *Duplicate abstracts.* Within five (5) days after a city election the chairman of the County Board of Elections shall mail to the chairman of the State Board of Elections the duplicate abstract prepared in accordance with G.S. 163-76. One copy shall be filed with the city clerk and one copy shall be retained by the County Board of Elections as provided by G.S. 163-300.

“Sec. 5.8. *Certificates of election.* The County Board of Elections shall officially determine and publish the results of elections in accordance with G.S. 163-175 and G.S. 163-179. Not earlier than five (5) days nor later than ten (10) days therefrom the chairman of the County Board of Elections shall issue certificates of election, under his hand and seal, to all municipal officers, under the provisions of G.S. 163-301.

“Article VI. Administrative Officers and Personnel.

“Sec. 6.1. *Appointment of city manager; salaries.* (a) The city council shall appoint a city manager who shall be the administrative head of the city government responsible for the administration of all departments. The city manager shall be appointed with regard to merit only, and he need not be a resident of the city at the time of his appointment, but shall reside therein during his tenure. He shall hold office during the pleasure of the city council and shall receive such compensation as it shall fix by ordinance.

The city manager shall:

- (1) Be the administrative head of the city government.
- (2) See that within the city the laws of the State and the ordinances, resolutions, and regulations of the city council are faithfully executed.
- (3) Attend all meetings of the city council, and recommend for adoption such measures as he shall deem expedient.
- (4) Make reports to the city council from time to time upon the affairs of the city, and keep the council fully advised of the city’s financial condition and its future financial needs.

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(5) Appoint and remove all employees of the city except the city attorney and the city clerk, who shall be appointed by the city council, and report all appointments and removals made by him to the council at its next meeting.

(6) Perform all other duties as may be required by the city council.

(b) Salaries and compensation of all officials and employees shall be fixed by the city council.

“*Sec. 6.2. City attorney.* The city attorney shall be appointed by the city council, and shall have the following duties:

(1) To serve as legal advisor to the city council, the city manager, the clerk, the treasurer, the tax collector, and all city departments, officers, and agencies.

(2) To represent as counsel the city, its officers, agents, or employees, in any legal action arising out of or connected with the proper functions of the city, unless disqualified so to act.

(3) To draft such ordinances, resolutions, and documents as requested by the council or city manager.

“*Sec. 6.3. City clerk.* The city clerk shall be appointed by the city council, and shall have the following duties:

(1) To act as clerk to the council, to attend all meetings thereof, and to maintain a permanent record of all proceedings thereof.

(2) To keep the books of account of the city.

“*Sec. 6.4. City treasurer.* The city treasurer shall be appointed by the city council and shall receive and keep all moneys belonging to the city and disburse the same according to law, and keep the manager advised of the status of all funds.

“*Sec. 6.5. City tax collector.* The city council shall appoint a tax collector for the city, who shall be charged with the collection of all taxes and assessments, and shall work under the direct supervision of the city manager.

“*Sec. 6.6. Consolidating of functions of certain offices.* The city council may, in its discretion, consolidate the offices of city clerk, city treasurer, and city tax collector, and may assign the functions of any one of these offices to the holder of any other of these offices, except that the office of city tax collector and city treasurer may not be combined.

“*Sec. 6.7. Oath of office required.* Before entering upon the discharge of their duties, the holders of the following offices and positions shall be required to take the oath prescribed for public officers, before the mayor or the city clerk: the city manager, city clerk, city treasurer, tax collector, any assistant city clerk or assistant tax collector, or assistant city treasurer, chief of police and each member of the police force, the building inspector, and all employees empowered to enforce the building code.

### “Article VII. Taxation.

“*Sec. 7.1. Powers of taxation.* The city shall have all taxing power and authority delegated to municipal corporations by general law.

“*Sec. 7.2. Payment of delinquent taxes into general fund.* The city council may, in its discretion, direct the payment into the general fund of the city all or any part of the proceeds of ad valorem taxes which are, when collected, three or more years delinquent.

“*Sec. 7.3. Additional remedies for collection of privilege license taxes.* In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the tax collector may employ the remedies of levy upon

personal property, attachment, and garnishment, in the manner and subject to the limitations provided by general law for the collection of ad valorem taxes.

“Article VIII. Street Improvements; Assessments for Cost.

“*Sec. 8.1. Authority.* In addition to any authority which is now or may hereafter be granted by general law to the City of Rockingham for making street improvements, the city council is authorized to make street improvements, and assess the cost thereof against abutting property owners in accordance with the provisions of this article.

“*Sec. 8.2. When petition unnecessary.* The city council may order street improvements and assess the cost thereof, exclusive of the cost incurred at street intersections, against the abutting property owners at an equal rate per front foot, without the necessity of a petition, upon the findings by the council as a fact:

(a) That the street improvement project does not exceed twelve hundred lineal feet.

(b) That such street or part thereof is unsafe for vehicular traffic and it is in the public interest to make such improvement.

(c) That it is in the public interest to connect two streets or portions of a street already improved.

(d) That it is in the public interest to widen a street or part thereof, which is already improved, provided, that assessment for widening any street or portion of street without petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the city’s thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this section.

“*Sec. 8.3. Street improvements defined.* For the purposes of the preceding section, the term ‘street improvements’ shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

“*Sec. 8.4. Assessment procedure.* In ordering street improvements without a petition and assessing the cost thereof under authority of this article, the city council shall comply with the procedure provided by Article 10, Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

“*Sec. 8.5. Effect of assessments.* The effect of the act of levying assessments under the authority of this article shall for all purposes be the same as if the assessments were levied under the authority of Article 10, Chapter 160A of the General Statutes.

“Article IX. Establishment of Proposed Street Lines.

“*Sec. 9.1. Authority to establish proposed street lines.* Whenever, in the opinion of the city council, it is in the best interest of the city to do so, the council may make provision for the ultimate widening or extension or both of existing streets and for the opening of new streets, and for the gradual acquisition of the lands necessary for such improvements, in accordance with the procedure established by this article.

“*Sec. 9.2. Platting of proposed street lines.* From and after the time of adoption of a major street plan by the city council and the State Highway Commission pursuant to provisions of G.S. 136-66.2, and as amended, the city council shall have power to request, make, or cause to be made, from time to

time, surveys for the exact locating of the lines of new, extended, widened, or narrowed streets and highways in the whole or any portion of the city and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of future streets, street extensions, street widenings or street narrowings. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

“*Sec. 9.3. Adoption of official map; hearing, notice.* Following the preparation of such plats, the city council may officially adopt a map or maps of planned new streets and highways, extensions, widenings, narrowings, or vacations of streets within the city and the area within one mile outside of its corporate boundaries. Before taking any such action, the council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper published in the city, or if there be no newspaper published in the city, by posting such notice at four public places in the city and at four public places within the affected area outside of the corporate boundaries. Said notice shall be published or posted for the first time not less than fifteen (15) days prior to the date fixed for said hearing. Following adoption of such map or maps, the council shall certify a copy to the register of deeds of Richmond County, which copy shall be duly filed. The placing of any street or street line upon any official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

“*Sec. 9.4. Right of city to acquire property before improvement.* From and after the time of adoption and certification to the register of deeds of any such map or maps, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within said lines until the city council shall have been given an opportunity to purchase or otherwise acquire said property for street purposes as provided by this article. To that end, any person proposing to build upon such land or to make repairs, or improvement to any existing building on such land shall, in writing, notify the city council of the nature and estimated cost of such building, repairs, or improvements. The council shall then determine whether it will take the necessary steps to acquire said land prior to construction of said building or the making of said repairs or improvements. If the council fails, within sixty (60) days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute condemnation proceedings to acquire said property, then the owner or other person giving notice may proceed to erect the building or to make the repairs or improvements described in said notice. The building inspector is authorized to withhold and refrain from issuing, for a period not exceeding sixty (60) days from receipt by the council of the notice herein prescribed, any building permit for the erection of any building within the said lines, or for the making of any repairs or improvements to existing buildings within said lines.

“*Sec. 9.5. Failure to give notice bars recovery for value of improvements.* If any person, firm, or corporation builds upon any land included within said

proposed street lines, or repairs or otherwise improves that part of any existing building within said lines, without giving the city council an opportunity to acquire said property free from improvements, as provided in Section 9.4 of this article, the council shall not be required to pay for the value of said buildings, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map or maps.

“*Sec. 9.6. Failure of city to act; no limit to subsequent condemnation.* The failure of the city council to take action under Sections 9.4 and 9.5 of this article within sixty (60) days after notice shall not have the effect of limiting the right of the council at any subsequent time to condemn the same. In such case, however, the owner shall be entitled to full compensation as now provided by law for the building, repairs, or improvements made after the failure of the council to take action within the prescribed period.

“Article X. Zoning.

“*Sec. 10.1. Extraterritorial zoning.* The city council shall have such authority to enact zoning regulations as is granted by the general law and as provided by North Carolina General Statutes Chapter 160A, Article 19 and amendments thereto.

“Article XI. Parking and Parking Facilities.

“*Sec. 11.1. Authority to regulate off-street parking.* The city council shall have power and authority to enact ordinances for the regulation of the use by vehicles of:

- (a) Municipally owned or leased off-street parking areas and facilities.
- (b) Publicly owned off-street parks, outdoor recreation areas, and yards and grounds occupied by public buildings.
- (c) Privately owned areas which the city is given to use as a parking area and used by the general public for parking or street purposes.

“*Sec. 11.2. Civil penalties.* In the exercise of the authority granted by Section 11.1, the city council shall have authority to make and provide civil penalties for violations of such ordinances, not exceeding the penalties provided by general law for the violation of municipal ordinances.

“*Sec. 11.3. Towing of vehicles from off-street area; charges.* The city council may, in addition to providing civil penalties, provide that such vehicles in violation of parking regulations at any of the places designated in Sections 11.1 and 11.2 of this article, may be towed away and the owner or person responsible therefor required to pay the resulting towing and storage charges.

“*Sec. 11.4. Towing of vehicles from streets; charges.* The city council may provide by ordinance that vehicles stalled, wrecked, abandoned, or illegally parked upon any public street may be removed therefrom by having the same towed away to such place as may be designated by a council-appointed city official and to require that the owner or person responsible therefor pay the resulting towing and storage charges.

“*Sec. 11.5. Registration prima facie evidence of responsibility.* The ownership of any vehicle as established by its registration with the North Carolina Department of Motor Vehicles shall be prima facie evidence as to the person, firm, or corporation responsible for violating the provisions of any ordinance adopted in accordance with the powers granted in this article.

“*Sec. 11.6. Towing and storage facilities.* In the implementation of the authority granted by this article relating to the removal and storage of vehicles, the city council may provide such towing and storage facilities by and through

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its own forces, equipment, and property, as well as by contract with independent towing and storage contractors and operators, and the city council may appropriate and use reasonable sums of public funds to defray the necessary expenses thereof.

### “Article XII. Traffic Bureau.

“*Sec. 12.1. Authority of city council to establish traffic bureau.* (a) The city council may by ordinance establish a traffic bureau to process and collect civil penalties provided for violations of traffic and parking ordinances of the city.

(b) No State tax shall be paid to the State of North Carolina in cases finally disposed of by the traffic bureau.

(c) All civil penalties collected in the traffic bureau shall be paid into the general fund of the city.

### “Article XIII. Police.

“*Sec. 13.1. Police jurisdiction extended.* (a) The jurisdiction of the police force is hereby extended to include all territory outside and within two miles of the corporate limits, and all members of the police force shall have within each territory all rights, power, and authority, as they now have within the corporate limits.

(b) The jurisdiction of the police force is hereby extended to include all city-owned property and facilities, whether located within or outside the corporate limits, and all members of the police force shall have upon and within such property and facilities all rights, power, and authority as they now have within the corporate limits.

### “Article XIV. Sidewalks.

“*Sec. 14.1. City may clean or repair after notice; charges a lien.* The city council may, by ordinance, establish a procedure whereby city forces may clean or repair any sidewalk upon failure of the abutting property owner after ten (10) days' notice to do so. In such event, the cost of such cleaning or repair shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, cost, and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

### “Article XV. Refuse, Weeds, and Trash.

“*Sec. 15.1. Property kept free of offensive matter.* It shall be the duty of every property owner in the city to keep his property free from noxious weeds, trash, and all other forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial to the public health or which may constitute a public nuisance.

“*Sec. 15.2. Removal of offensive matter; charges a lien.* The city council may by ordinance establish a procedure whereby city forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after ten (10) days' notice to do so. In such event, the cost of such cleaning, cutting, and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs, and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

“Article XVI. Purchasing and Contracts.

“*Sec. 16.1. Provisions of general law govern.* All contracts of the city for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment shall be made in compliance with the requirements of Article 8, Chapter 143 of the General Statutes.

“*Sec. 16.2. Conflict of interest.* No officer, department head, employee, or board or commission member shall make or participate in the making of any contract with the city in which he may be in any manner financially interested, directly or indirectly. Any such person who has such an interest in any proposed contract shall make known that interest. The wilful concealment of such a financial interest or the wilful violation of this section shall constitute malfeasance in office or position, and any violator shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person, firm, or corporation contracting with the city shall render the contract void.

“Article XVII. Claims Against the City.

“*Sec. 17.1. Presentation of claims; suit upon claims.* (a) All claims or demands against the City of Rockingham arising in court shall be presented to the city council in writing, signed by the claimant, his attorney, or agent, within ninety (90) days after the claim or demand is due or the cause of action accrues, and no suit or action shall be brought thereon within thirty (30) days or after the expiration of twelve (12) months from the time said claim or demand is so presented. Unless the claim or demand is so presented within ninety (90) days after the cause of action accrues, and unless suit is brought within twelve (12) months thereafter, any action thereon shall be barred.

(b) No action shall be instituted against the city on account of damages to or compensation for real property taken or used by the city for any public purpose of any kind unless, within two (2) years after such alleged use, the owner, his executor, administrator, guardian, or next friend shall have given notice in writing to the city council of the claim, stating in the notice the date that the alleged use commenced, a description of the property alleged to have been used, and the amount of damage or compensation claimed.

(c) Notwithstanding the provision of subsections (a) and (b) of this section, if a complainant suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given by him or on his behalf within six (6) months after the termination of the incapacity, provided that minority shall not of itself constitute physical or mental incapacity. If the complainant is a minor, his action shall not be barred if notice of claim is given on his behalf within three (3) years after the happening or the infliction of the injury complained of; or, if the minor suffers from physical or mental incapacity that renders it impossible for him to give notice, his action shall not be barred if notice of claim is given on his behalf within six (6) months after termination of the incapacity, or within three (3) years after the happening or the infliction of the injury complained of, whichever is the longer period. The city may at any time request the appointment of a next friend to represent any person having a potential claim against the city and known to be suffering from physical or mental incapacity.

“*Sec. 17.2. Settlement of claims by city clerk or treasurer.* The city manager, as authorized by the governing body of the city, may settle claims against the city for:

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(1) Personal injury or damages to property when the amount involved does not exceed the sum of \$1000.00 and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred.

(2) The taking of small portions of private property which are needed for the rounding of corners at street intersections, when the amount involved in any such settlement does not exceed \$1000.00 and does not exceed the actual loss sustained. Any settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident occasion, or taking complained of. All such releases shall be reviewed and approved as to form by the city attorney.

### “Article XVIII. Miscellaneous.

“*Sec. 18.1. Signing of warrants or orders for payment.* Either the city treasurer, or any bonded official of the City of Rockingham and who is authorized by the city council may sign warrants or orders for payment on the city treasury or depository. In addition, in the absence of the city clerk or other qualified and authorized official, such warrants or orders may be signed by the mayor.

“*Sec. 18.2. City depositories; signatures to vouchers; surety bonds.* The city council from time to time shall have the power to designate depositories to receive any and all funds collected or paid to the city treasurer. The city council shall determine from time to time what security shall be required for funds placed in a depository. The city treasurer is authorized and empowered to sign vouchers for all obligations of the city. The council may from time to time designate other officials of the City of Rockingham to sign vouchers in behalf of the city. The city council shall designate what officials of the City of Rockingham shall furnish surety bonds and the amount of said bonds.

“*Sec. 18.3. Bond elections.* The conduct of bond elections shall be governed by the provisions of general law relating to municipal bond elections.

“*Sec. 18.4. Cemetery regulations.* The city council may provide rules and regulations for the use of all city cemeteries, whether located within or outside the corporate limits, and such rules and regulations shall be enforced by the police force within said cemeteries as city ordinances.

“*Sec. 18.5. Interments within city.* The city council is authorized to establish, operate and maintain cemeteries within the corporate limits as provided in Article 17 of Chapter 160A of the North Carolina General Statutes.”

**Sec. 2.** The purpose of this act is to revise the Charter of the City of Rockingham. It is intended to continue in force without interruption those provisions of prior local acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

**Sec. 3.** All existing ordinances and resolutions of the City of Rockingham, and all existing rules or regulations of departments or agencies of the City of Rockingham, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

**Sec. 4.** No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the City of Rockingham or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

**Sec. 5.** If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 2099                      CHAPTER 1266**

**AN ACT TO PROHIBIT SETTING OR USING TRAP OF LEG-GRIPPING TYPE IN DUPLIN COUNTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Notwithstanding any other provision of law, and notwithstanding any rule, regulation, or order heretofore or hereafter adopted or issued by the North Carolina Wildlife Resources Commission, it shall be unlawful to set or use a trap of leg-gripping type in Duplin County.

**Sec. 2.** Upon conviction for violation of this act, punishment shall not exceed 10 days' imprisonment, or a fine not exceeding one hundred dollars (\$100.00) or both in the discretion of the court.

**Sec. 3.** This act shall be in full force and effect on and after July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 1654                      CHAPTER 1267**

**AN ACT TO INCREASE THE JURISDICTIONAL AMOUNT FOR MAGISTRATE'S COURT FROM THREE HUNDRED DOLLARS (\$300.00) TO FIVE HUNDRED DOLLARS (\$500.00).**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-210(1) is hereby amended by deleting the words and figures "three hundred dollars (\$300.00)" and inserting in lieu thereof the words and figures "five hundred dollars (\$500.00)".

**Sec. 2.** G.S. 7A-219 is hereby amended on line two by deleting the words and figures "Three hundred dollars (\$300.00)" and inserting in lieu thereof the words and figures "five hundred dollars (\$500.00)".

**Sec. 3.** G.S. 7A-305(a) (2) is amended by deleting "three hundred dollars (\$300.00)" wherever it appears, and inserting in lieu thereof "five hundred dollars (\$500.00)".

**Sec. 4.** G.S. 42-28 and G.S. 42-30 are amended by deleting "three hundred dollars (\$300.00)" wherever the same appears in each of these sections, and inserting in lieu thereof "five hundred dollars (\$500.00)".

**Sec. 5.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 2137

CHAPTER 1268

AN ACT TO AMEND CHAPTER 6, PRIVATE LAWS OF NORTH CAROLINA 1840-1841, AS AMENDED, PERTAINING TO ACQUISITION AND CONSTRUCTION OF HOSPITAL FACILITIES BY TRUSTEES OF REX HOSPITAL, RALEIGH, NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 6, Private Laws of North Carolina 1840-1841, as amended by Chapter 53, Public-Local and Private Laws of North Carolina 1935, as amended by Chapter 98, Public-Local Laws of North Carolina 1939, and as amended by Chapter 361 of Session Laws of 1973, is hereby amended by adding a new Section IV to read as follows:

“IV. (a) The Trustees are hereby authorized to provide for the issuance, at one time or from time to time, of bonds, or notes in anticipation of the issuance of bonds, of the Trustees to carry out and effectuate their corporate purposes, including the cost of any hospital facilities. The term ‘cost’ as applied to any hospital facilities means the cost of construction or acquisition; the cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved; the cost of demolishing, removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated; the cost of all machinery, fixed and movable equipment and furnishings; financing charges, interest prior to and during construction and, if deemed advisable by the Trustees, for a period not exceeding two years after the estimated date of completion of construction, the cost of engineering and architectural surveys, plans and specifications; the cost of consulting and legal services and other expenses necessary or incident to the feasibility or practicability of constructing or acquiring such hospital facilities; the cost of administrative and other expenses necessary or incident to the construction or acquisition of such hospital facilities, and the financing of the construction or acquisition thereof, including reasonable provisions for working capital and a reserve for debt service.

The principal of and the interest on such bonds or notes shall be payable solely from funds provided under this section for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or other funds provided therefor. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the Trustees at such price or prices and upon such terms and conditions as may be determined by the Trustees. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the Trustees. Notes shall mature at such time or times not exceeding 10 years from their date or dates, and bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Trustees. The Trustees shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before

the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Trustees may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the Trustees may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Trustees shall determine to be in their best interests.

The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the Trustees may provide in the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

Prior to the preparation of definitive bonds, the Trustees may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Trustees may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

Bonds or notes may be issued under the provisions of this section without obtaining the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes.

(b) In the discretion of the Trustees any bonds or notes issued under the provisions of this section may be secured by a trust agreement by and between the Trustees and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution authorizing the issuance of such bonds or notes may pledge or assign all or any part of the revenues of the Trustees received pursuant to this act, including, without limitation, fees, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any hospital facilities, and may mortgage the hospital facilities or any part thereof. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Trustees in relation to the purposes to which bond or note proceeds may be applied, the disposition or pledging of the revenues of the Trustees, the duties of the Trustees with respect to the acquisition, construction, maintenance, repair and operation of any hospital facilities, the fees, rents and charges to be fixed and collected in connection therewith, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or notes, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the Trustees. Any such trust agreement or

resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Trustees may deem reasonable and proper for the security of the holders of any bonds or notes. Expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of any hospital facilities or paid from the revenues pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the Trustees.

- (c) (1) The Trustees are hereby authorized to fix and to collect fees, rents and charges for the use of any hospital facilities and any part or section thereof.
- (2) The fees, rents and charges shall be fixed so as to provide a fund sufficient with such other funds as may be made available therefor, (i) to pay the costs of operating, repairing and maintaining the hospital facilities, to the extent that adequate provision for the payment of such costs has not otherwise been provided for, (ii) to pay the principal of and the interest on all the bonds as the same shall become due and payable and (iii) to create and maintain any reserves provided for in the resolution authorizing the issuance of, or any trust agreement securing, such bonds; provided, however, that nothing herein shall prohibit the application of fees, rents and charges to the payment of debt service on the bonds prior to the payment of the costs of operating, repairing and maintaining the hospital facilities.
- (3) All pledges of fees, rents, charges and other revenues under the provisions of this section shall be valid and binding from the time when such pledges are made. All such revenues so pledged and thereafter received by the Trustees shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Trustees, irrespective of whether such parties have notice thereof. The resolution or any trust agreement by which a pledge is created need not be filed or recorded except in the records of the Trustees; provided, however, that any trust agreement or resolution creating a mortgage on real property of the Trustees shall be filed in the same manner required by law for mortgages of real property.

(d) Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this section, including, without limitation, fees, rents, charges, insurance proceeds, condemnation awards and any other revenues and funds received in connection with any hospital facilities, shall be deemed to be trust funds to be held and applied solely as provided in this section. The resolution authorizing the issuance of, or any trust agreement securing, any bonds or notes may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this section, subject to such regulations as this section and such resolution or trust agreement may provide.

(e) Any holder of bonds or notes issued under the provisions of this section or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds or notes, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the Trustees pursuant to this section, and may enforce and compel the performance of all duties required by this section or by such trust agreement or resolution to be performed by the Trustees or by any member or employee thereof.

(f) The Trustees are hereby authorized to provide for the issuance of refunding bonds or notes for the purpose of refunding any bonds or notes then outstanding which shall have been issued under the provisions of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds or notes and, if deemed advisable by the Trustees for any corporate purpose of the Trustees, including, without limitation:

- (1) Constructing improvements, additions, extensions or enlargements of the hospital facilities in connection with which the bonds or notes to be refunded shall have been issued, and
- (2) Paying all or any part of the cost of any additional hospital facilities.

The issuance of such bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Trustees in respect of the same shall be governed by the provisions of this section which relate to the issuance of bonds or notes, insofar as such provisions may be appropriate therefor.

Refunding bonds or notes may be sold or exchanged for outstanding bonds or notes issued under this section and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds or notes. Pending the application of the proceeds of any such refunding bonds or notes, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the bonds or notes being refunded, and, if so provided or permitted in the resolution authorizing the issuance of, or in the trust agreement securing, such bonds or notes, to the payment of any interest on such refunding bonds or notes and any expenses in connection with such refunding, such proceeds may be invested in such manner as shall be permitted in the resolution authorizing the issuance of, or the trust agreement securing, such refunding bonds or notes.

(g) No member or employee of the Trustees shall be subject to any personal liability or accountability by reason of his execution of any bonds or notes or the issuance thereof.

(h) Bonds or notes issued under the provisions of this section shall not be deemed to constitute a debt or obligation of the State, the County of Wake, the City of Raleigh or of any other municipality or political subdivision, but shall be payable solely from the revenues and other funds provided therefor. Each bond or note issued under this section shall contain on the face thereof a statement to the effect that the Trustees shall not be obligated to pay the same nor the interest thereon except from the revenues and other funds pledged therefor and that neither the State, the County of Wake, the City of Raleigh nor any other

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municipality or political subdivision is liable for the payment of the principal of or the interest on such bonds or note.

(i) The Trustees are hereby authorized to agree to convey, and, subject to the retirement of any bonds issued pursuant to this section, or the making of provision for such retirement, to convey title to any hospital facilities owned by the Trustees to the State of North Carolina, the County of Wake, the City of Raleigh or any other political subdivision deemed appropriate by the Trustees.

(j) The foregoing provisions of this section shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this section need not comply with the requirements of any other law applicable to the issuance of bonds or notes."

**Sec. 2.** Insofar as the provisions of this act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this act shall be controlling.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

## H. B. 2159 CHAPTER 1269

AN ACT AMENDING CHAPTER 730 OF THE 1973 SESSION LAWS, "AN ACT RELATING TO THE GAMES OF 'BINGO' AND 'SKILO' IN WAKE COUNTY."

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 730 of the 1973 Session Laws is amended by inserting between Sections 2 and 3 thereof the following:

"Sec. 2.5. It shall be lawful to play or operate games of 'Bingo' and 'Skilo' at the North Carolina State Fair."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

## H. B. 2164 CHAPTER 1270

AN ACT TO PROVIDE FOR THE ELECTION OF THE GOVERNING BODY OF THE TOWN OF BLADENBORO.

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing body of the Town of Bladenboro shall consist of six commissioners and a mayor to be elected and appointed as herein provided.

**Sec. 2.** The Town of Bladenboro shall be divided into two resident districts. District No. 1 shall consist of all territory within the corporate limits which lie north of the centerline of N. C. Highway 1211 (formerly Hy. 211) and District No. 2 shall consist of all the territory within the corporate limits which lie south of the centerline of said highway.

**Sec. 3.** The commissioners shall be voted upon by the qualified voters of the entire Town. Three commissioners shall be elected from each of the districts

and must be residents and qualified voters of the district. The three candidates in each district receiving the highest number of votes shall be declared elected. The commissioners shall be elected for terms of two years. At the first meeting of the commissioners after their election, they shall appoint one of the commissioners as mayor, and he shall serve for a term of two years.

**Sec. 4.** The municipal elections shall be nonpartisan and decided by simple plurality, and at the time specified in G.S. 163-279(a)(1). The municipal elections shall be held and conducted by the Bladen County Board of Elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina.

**Sec. 5.** The mayor shall have the right to vote on all issues as any other commissioner but he shall not be entitled to vote a second time to break a tie.

**Sec. 6.** Since the November 1973 municipal election has been declared invalid by the Courts, the Bladen County Board of Elections is hereby authorized to call and hold, immediately, a special municipal election in the Town of Bladenboro under the provisions of this act. The persons elected in the special election shall serve until their successors are elected and qualified in the regular municipal election to be held in 1975 as provided in Articles 23 and 24 of Chapter 163 of the General Statutes of North Carolina.

**Sec. 7.** All prior local acts concerning the election of the governing body of the Town of Bladenboro are hereby repealed.

**Sec. 8.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

## H. B. 1936                      CHAPTER 1271

### AN ACT TO PROHIBIT DISCHARGE OF FIREARMS ON CERTAIN STATE-OWNED PROPERTY IN YADKIN COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful for any person to discharge a firearm upon that State-owned property adjacent to the North and South right-of-way line of NC 67 bounded on the East by the Yadkin River and totaling approximately 2.5 acres.

**Sec. 2.** Violation of this act shall constitute a misdemeanor and shall be punishable as such.

**Sec. 3.** The Sheriff, his deputies and any other duly authorized police officer may enter on said State-owned lands and arrest persons in violation of this act.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 978

CHAPTER 1272

AN ACT TO REGULATE CONTRIBUTIONS AND EXPENDITURES IN POLITICAL CAMPAIGNS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 163 of the General Statutes of North Carolina is hereby amended by inserting therein a new Article 22A as follows:

“Article 22A.

“Regulating Contributions and Expenditures  
in Political Campaigns.

“§ 163-278.1. *Definitions.*—When used in this Article:

- (1) The term ‘Board’ means the State Board of Elections.
- (2) The term ‘broadcasting station’ means any commercial radio or television station or community antenna radio or television station.
- (3) The term ‘business entity’ means any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
- (4) The term ‘candidate’ means any individual who has filed a notice of candidacy for public office listed in G.S. 163-278.1(17) with the proper board of elections.
- (5) The term ‘communications media’ or ‘media’ means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences.
- (6) The terms ‘contribute’ or ‘contribution’ mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, from any person or individual, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee, or political party. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods notwithstanding the foregoing meanings of ‘contribution’, the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee.
- (7) The term ‘corporation’ means any corporation doing business in this State under either domestic or foreign charter, and includes a corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner or a joint venturer.
- (8) The term ‘election’ means any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy. The term ‘election’ shall not include any local or statewide referendum or bond election unless the act calling for such local or statewide referendum or bond election specifically

states that such statewide bond election or referendum shall be covered by the terms and provisions of this Article.

(9) The terms 'expend' or 'expenditure' mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, from any person or individual, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure, in support of or in opposition to any candidate, political committee, or political party.

(10) The term 'individual' means a single individual or more than one individual.

(11) The term 'insurance company' means any person whose business is making or underwriting contracts of insurance, and includes mutual insurance companies, stock insurance companies, and fraternal beneficiary associations.

(12) The term 'labor union' means any union, organization, combination or association of employees or workmen formed for the purposes of securing by united action favorable wages, improved labor conditions, better hours of labor or work-related benefits, or for handling, processing or righting grievances by employees against their employers, or for representing employees collectively or individually in dealings with their employers. The term includes any unions to which Article 10, G.S. Chapter 95 applies.

(13) The term 'person' means any business entity, corporation, insurance company, labor union, or professional association.

(14) The term 'political committee' means a combination of two or more individuals, or any person, committee, association, or organization, the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election or which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the nomination or election of any candidate at any election. The term includes, without limitation, any political party's State, county or district executive committee.

(15) The term 'political party' means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163-96.

(16) The term 'professional association' means any trade association, group, organization, association, or collection of persons or individuals formed for the purposes of advancing, representing, improving, furthering or preserving the interests of persons or individuals having a common vocation, profession, calling, occupation, employment, or training.

(17) The term 'public office' means any of the following offices filled by the voters: Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, State Senator, State Representative, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior or District Courts, and Solicitor (District Attorney).

(18) The term 'treasurer' means an individual appointed by a candidate or political committee as provided in G.S. 163-278.2.

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(19) The term 'political purpose' means any purpose in aid of seeking to influence an election or a political party or candidate.

"§ 163-278.2. *Appointment of political treasurers.*—(a) Each candidate and political committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer, and, upon failure to file report designating a treasurer, the candidate shall be concluded to have appointed himself as treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon the appointed treasurer and subject to the penalties and sanctions hereinafter provided.

(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.4(a)(1) a statement of organization that includes:

- (1) the name, address and purpose of the candidate or political committee;
- (2) the names, addresses, and relationships of affiliated or connected candidates, political committees, political parties, or similar organizations;
- (3) the territorial area, scope, or jurisdiction of the candidate or political committee;
- (4) the name, address, and position with the candidate or political committee of the custodian of books and accounts;
- (5) the name and party affiliation of the candidate(s) whom the committee is supporting or opposing, and the office(s) involved;
- (6) the name of the political committee or political party being supported or opposed if the committee is supporting the ticket of a particular political committee or political party;
- (7) a listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used;
- (8) the name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the treasurer, who shall be fully responsible for any act or acts committed by an assistant treasurer, and the treasurer shall be fully liable for any violation of this act committed by any assistant treasurer; and
- (9) any other information which might be requested by the Board that deals with the campaign organization of the candidate.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Board within a 10-day period following the change.

(d) A candidate or political committee may remove his or its treasurer. In case of the death, resignation or removal of his or its treasurer before compliance with all obligations of a treasurer under this Article, such candidate or political committee shall appoint a successor within 10 days of the vacancy of such office, and certify the name and address of the successor in the manner provided in the case of an original appointment.

"§ 163-278.3. *Detailed accounts to be kept by political treasurers.*—(a) The treasurer of each candidate and political committee shall keep detailed accounts, current within not more than seven days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee.

(b) Accounts kept by the treasurer of a candidate or political committee or the accounts of a treasurer or political committee at any bank or other depository listed under G.S. 163-278.2(b)(7), may be inspected, before or after the election to which the accounts refer, by a member, designee, agent, attorney or employee of the Board who is making an investigation pursuant to G.S. 163-278.15.

(c) A treasurer may not accept a contribution of more than one hundred dollars (\$100.00) from a nonresident of this State unless the contribution is accompanied by a written statement setting forth the name and address of each contributor.

(d) A treasurer shall not be required to report the name of any resident of this State who makes a total contribution of fifty dollars (\$50.00) or less but he shall instead report the fact that he has received a total contribution of fifty dollars (\$50.00) or less, the amount of the contribution, and the date of receipt. If a treasurer receives contributions of fifty dollars (\$50.00) or less, each at a single event, he may account for and report the total amount received at that event, the date and place of the event, the nature of the event, and the approximate number of people at the event. With respect to the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods, if the price or value received for any single service or goods exceeds fifty dollars (\$50.00), the treasurer shall account for and report the name of the individual paying for such services or goods, the amount received, and the date of receipt, but if the price or value received for any single service or item of goods does not exceed fifty dollars (\$50.00), the treasurer may report only those services or goods rendered or sold at a value that does not exceed fifty dollars (\$50.00), the nature of the services or goods, the amount received in the aggregate for the services or goods, and the date of the receipt.

(e) All expenditures for media expenses shall be made by check only. All media expenditures in any amount shall be accounted for and reported individually and separately.

(f) All expenditures for non-media expenses (except postage) of more than twenty-five dollars (\$25.00) shall be made by check only. All expenditures for non-media expenses of twenty-five dollars (\$25.00) or less may be made by check or by cash payment. All non-media expenditures of more than twenty-five dollars (\$25.00) shall be accounted for and reported individually and separately, but expenditures of less than twenty-five dollars (\$25.00) may be accounted for and reported in an aggregated amount, but in that case the treasurer shall account for and report that he made expenditures of less than twenty-five dollars (\$25.00) each, the amounts, dates, and the purposes for which made.

“§ 163-278.4. *Statements filed with Board.*—(a) The treasurer of each candidate and of each political committee shall file under verification with the Board:

- (1) *Organizational report.* The appointment of the treasurer as required by G.S. 163-278.2 (a) and the statement of organization as required by G.S. 163-278.2(b) both shall be reported to the Board no later than the tenth day following the day on which the candidate files his notice of

candidacy or the tenth day following the organization of the political committee (whichever occurs first).

- (2) *Report #1* - The treasurer for each candidate shall file a report of all contributions and expenditures no later than the last day of the month in which the candidate files. The treasurer for each committee shall file a report of all contributions and expenditures no later than the tenth day following the organization of such committee, or January 31 of the year in which the primary and election is conducted, whichever is later. These reports shall include all contributions and expenditures made during the previous calendar year.
- (3) *Report #2* - The treasurer shall file a report of all contributions and expenditures, not listed on the previous report, no sooner than the fifteenth day and no later than the tenth day preceding each primary or election. Each report filed under this subsection shall be current to within no more than 17 days before the primary or election to which it refers.
- (4) *Report #3* - The treasurer shall file a report of all contributions and expenditures, not listed on the previous report, no later than the tenth day following each primary or election.
- (5) *Report #4* - The treasurer shall file a report of all contributions and expenditures no later than September first prior to the general election which shall include all activity during the period from the filing of Report #3 and the date set forth in subsection (b), below.
- (6) *Final Report* - The treasurer shall file a final report, listing all contributions and expenditures not shown on the previous report, no later than the last day of the month in which the general election is conducted. If the final report fails to disclose a final accounting of all contributions and expenditures, then a supplemental final report shall also be filed no later than the tenth day of December following the general election.

(b) Reports to include inclusive dates. Except as provided in G.S. 163-278.4(a)(3), each report due pursuant to this section shall contain contributions and expenditures received and expended through and including the seventh day prior to the date on which the report is due.

(c) Candidates eliminated in primary; final report. In addition to Report #3, a final report shall be filed by the treasurer of each candidate eliminated in a primary election. Such final report shall be filed no later than 45 days following the date on which the primary was conducted.

“§ 163-278.5. *Procedure for inactive candidate or committee.*—If no contribution is received or expenditure made by or on behalf of a candidate or political committee during a period described in G.S. 163-278.4, the treasurer shall file with the Board, at the time required by G.S. 163-278.4, a statement to that effect and it shall not be required that any inactive candidate or committee so filing a report of inactivity file any additional reports required by G.S. 163-278.4 so long as the candidate or committee remains inactive.

“§ 163-278.6. *Contents of treasurer’s statement of receipts and expenditures.*—(a) Statements filed pursuant to provisions of this Article shall set forth the following:

- (1) Contributions - A list of all contributions required to be listed under G.S. 163-278.3 received by or on behalf of a candidate or political

committee. The statement shall list the name and complete mailing address of each contributor, the amount contributed, and the date such contribution was received. The total sum of all contributions to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board.

(2) Expenditures - A list of all expenditures required under G.S. 163-278.3 made by or on behalf of a candidate or political committee. The statement shall list the name and complete mailing address of each payee, the amount paid, the purpose, and the date such payment was made. The total sum of all expenditures to date shall be plainly exhibited. Forms for required reports shall be prescribed by the Board.

(b) Statements shall reflect anything of value paid for or contributed by any person or individual, both as a contribution and expenditure.

“§ 163-278.7. *Contributions and expenditures by an individual other than a candidate.*—Subject to G.S. 163-278.9(e) and 163-278.8, it shall be permissible for an individual other than a candidate to make contributions or expenditures in support of, or in opposition to, any candidate or political committee other than by contribution to a candidate or political committee. In the event an individual makes contributions or expenditures, other than by contribution to a candidate or political committee, in excess of one hundred dollars (\$100.00), then, within 10 days after making such a contribution or expenditure, he shall file a statement of such contribution or expenditure with the Board in accordance with the terms and conditions of G.S. 163-278.6.

“§ 163-278.7A. *Limitation on contributions.*—(a) No individual or political committee shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of three thousand dollars (\$3,000) for that election.

(b) No candidate or political committee shall accept or solicit any contribution from any individual or other political committee of any money or any other contribution in any election in excess of three thousand dollars (\$3,000) for that election.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to make a contribution to the candidate or to the candidate's treasurer of any amount of money or to make any other contribution in any election in excess of three thousand dollars (\$3,000) for that election.

(d) For the purposes of this section, the term ‘an election’ means any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election.

(e) This section shall not apply to any State, district or county executive committee of any political party. For the purposes of this section only, the term ‘political party’ means only those political parties officially recognized under G.S. 163-96.

(f) Any individual, candidate or political committee who violates the provisions of this section is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000), or imprisoned for not more than one year, or be both fined and imprisoned.

“§ 163-278.8. *No contributions in names of others; no anonymous contributions; contributions in excess of one hundred dollars (\$100.00).*—(a) No

candidate, political committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously except as provided in G.S. 163-278.3(d). If a candidate, political committee, political party, or treasurer receives any such contributions, he shall pay the money over to the Board, by check, and all such monies received by the Board shall be deposited in the General Fund of the State of North Carolina.

(b) No individual or person shall give, and no candidate, committee or treasurer shall accept, any monetary contribution in excess of one hundred dollars (\$100.00) unless such contribution be in the form of a check, draft, or money order.

“§ 163-278.8A. *No acceptance of contributions made by corporations, foreign and domestic.*—No candidate, political committee, political party, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina.

“§ 163-278.9. *Regulations regarding contributions, expenditures and media advertising.*—(a) Except as provided in G.S. 163-278.7, no contribution may be received or expenditure made by or on behalf of a candidate or political committee:

- (1) Until the candidate or political committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and
- (2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate or political committee.

(b) No advertisement of any kind may be made by a candidate or political committee in the case of the media unless it bears the legend

‘By authority of \_\_\_\_\_(name of treasurer),  
Treasurer for \_\_\_\_\_(name of candidate  
or campaign committee)’; or

(c) No advertisement of any kind may be made by a candidate or political committee over any broadcasting station unless it includes the statement

‘By authority of \_\_\_\_\_(name of treasurer), Treasurer for  
\_\_\_\_\_ (name of candidate or campaign committee).’

(d) Notwithstanding the provisions contained in (b) and (c) of this section, a candidate may personally purchase an advertisement from any media or broadcasting station, and in that event it shall bear the legend or contain the statement

‘Paid for by \_\_\_\_\_(name of candidate).’

(e) If an individual other than a candidate purchases an advertisement from any media or broadcasting station for or in support of or in opposition to any candidate, political committee or political party, the individual’s advertisement shall include the statement or bear the legend

‘Paid for by \_\_\_\_\_(name of individual).’

“§ 163-278.10. *Statements of media receiving campaign expenditures.*—(a) Each media shall file a report with the Board at the times set forth in G.S. 163-278.4(a)(3), (4), (5), and (6). Each report shall list:

1. The name and address of each candidate, treasurer or individual making or authorizing an expenditure for media purposes;
2. The candidate, political committee or political party on whose behalf the expenditure was made or authorized and the political office(s) with

respect to which the candidate, treasurer or individual made the expenditure; and

3. With respect to each candidate, treasurer or individual making or authorizing an expenditure, the amount and date of each expenditure and the total amount of all expenditures from each candidate, treasurer or individual.

(b) Each media shall require written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure.

“§ 163-278.11. *Normal commercial charges for political advertising.*—No media and no supplier of materials or services shall charge or require a candidate, treasurer, political party, or individual to pay a charge for advertising, materials, space, or services purchased for or in support of or in opposition to any candidate, political committee, or political party that is higher than the normal charge it requires other customers to pay for comparable advertising, materials, space, or services purchased for other purposes.

“§ 163-278.12. *Violations by corporations, business entities, labor unions, professional associations and insurance companies.*—(a) Except as provided in G.S. 163-278.12(b), it shall be unlawful for any corporation, business entity, labor union, professional association or insurance company directly or indirectly: (1) to make any contribution or expenditure (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) in aid or in behalf of or in opposition to any candidate or political committee in any election or for any political purpose whatsoever; (2) to pay or use or offer, consent or agree to pay or use any of its money or property for or in aid of or in opposition to any candidate or political committee or for or in aid of any person, organization or association organized or maintained for political purposes, or for or in aid of or in opposition to any candidate or political committee or for any political purpose whatsoever; and (3) to reimburse or indemnify any person or individual for money or property so used or for any contribution or expenditure so made; and it shall be unlawful for any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company to aid, abet, advise or consent to any such contribution or expenditure, or for any person or individual to solicit or knowingly receive any such contribution or expenditure. Any officer, director, stockholder, attorney, agent or member of any corporation, business entity, labor union, professional association or insurance company aiding or abetting in any contribution or expenditure made in violation of this section shall be guilty of a misdemeanor as hereinafter set out, and shall in addition be liable to such corporation, business entity, labor union, professional association or insurance company for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder or member thereof.

(b) It shall, however, be lawful for any corporation, business entity, labor union, professional association or insurance company to communicate with its employees, stockholders or members and their families on any subject; to conduct non-partisan registration and get-out-the-vote campaigns aimed at their employees, stockholders, or members and their families; or for officials and employees of any corporation, insurance company or business entity or the officials and members of any labor union or professional association to establish, administer, contribute to, and to receive and solicit contributions to a separate

segregated fund to be utilized for political purposes, except as provided in G.S. 163-278.13, and those individuals shall be deemed to become and be a political committee as that term is defined in G.S. 163-278.1(14); provided, however, that it shall be unlawful for any such fund to make a contribution or expenditure by utilizing contributions secured by physical force, job discrimination, financial reprisals or the threat of force, job discrimination or financial reprisals, or by dues, fees, or other monies required as a condition of membership or employment or as a requirement with respect to any terms or conditions of employment, including, without limitation, hiring, firing, transferring, promoting, demoting, or granting seniority or employment related benefits of any kind, or by monies obtained in any commercial transaction whatsoever.

(c) A violation of this section shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000), or imprisonment of not more than one year, or by both fine and imprisonment. In addition, the acceptance of any contribution, expenditure, payment, reimbursement, indemnification, or anything of value under subsection (a) shall be unlawful and the defendant shall be subject to the same punishment as set forth in this subsection.

“§ 163-278.13. *Disclosure before soliciting contributions.*—(a) It shall be unlawful for one or more individuals acting in concert, or for any group, committee, club or organization, of any type or nature, of two or more individuals, to solicit, attempt to solicit, or receive contributions for the purpose of supporting a candidate, political committee, or political party without first clearly advising those solicited as follows:

- (1) The name of the candidate(s) for whom the contribution will be used;  
or
- (2) The name of the political committee or party for which the funds will be used; or
- (3) That a decision will be reached later as to the candidate(s), political committee(s), or political party(ies) to be supported and that the contributions solicited will be expended in a manner and for a purpose to be determined at a future date but no later than 20 days prior to the pending primary or general election.

(b) A violation of this section shall be punishable by a fine not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000), or imprisonment of not more than one year, or by both fine and imprisonment.

“§ 163-278.14. *Promulgation of policy and administration through Board.*—The Board shall have responsibility, and adequate staff and facilities, for promulgating all necessary regulations and the administration of this Article. The Board may empower the Executive Secretary-Director with responsibility for the administrative operations required to effect this Article and may delegate or assign to him such other duties from time to time by regulations or orders of the Board. However, the Board shall not delegate the making of regulations to the Executive Secretary-Director or other staff personnel.

“§ 163-278.15. *Duties of Board.*—It shall be the duty and power of the Board:

(1) To prescribe forms of statements and other information required to be filed by this Article, to furnish such forms to the county boards of elections and individuals, media or others required to file such statements and information, and to prepare, publish and distribute or cause to be distributed to all candidates at the time they file notices of candidacy a manual setting forth the provisions

of this Article and a prescribed uniform system for accounts required to file statements by this Article;

(2) To accept and file any information voluntarily supplied that exceeds the requirements of this Article;

(3) To develop a filing, coding, and cross-indexing system consonant with the purposes of this Article;

(4) To make statements and other information filed with it available to the public at a charge not to exceed actual cost of copying;

(5) To preserve such statements and other information for a period of five years from date of receipt;

(6) To prepare and publish such reports as it may deem appropriate;

(7) To make investigations to the extent the Board deems necessary with respect to statements filed under the provisions of this Article and with respect to alleged failures to file any statement required under the provisions of this Article, and, upon complaint under oath by any registered voter, with respect to alleged violations of any part of this Article; and

(8) After investigation, to report apparent violations by candidates, political committees, individuals or persons to the proper solicitor (district attorney) as provided in G.S. 163-278.20.

“§ 163-278.16. *Duties of Executive Secretary-Director of Board.*—The Executive Secretary-Director of the Board shall inspect or cause to be inspected each statement filed with the Board under this Article within 10 days after the date it is filed. He shall immediately notify any individual, candidate, treasurer, political committee, or media required to file a statement under this Article if:

(1) It appears that the individual, candidate, treasurer, political committee or media has failed to file a statement as required by law or that a statement filed does not conform to this Article; or

(2) A written complaint is filed under oath with the Board by any registered voter of this State alleging that a statement filed with the Board does not conform to this Article or to the truth or that an individual, candidate, treasurer, political committee or media has failed to file a statement required by this Article.

“§ 163-278.17. *Statements examined within three months.*—Within three months after the date of each election, the Executive Secretary-Director shall examine or cause to be examined each statement filed with the Board under this Article, and, referring to the election, determine whether the statement conforms to law and to the truth. Such examination shall include a comparison of reports and statements submitted by a treasurer and those required from media pursuant to G.S. 163-278.10.

“§ 163-278.18. *Issuance of declaration of nomination or certificate of election.*—No declaration of nomination and no certificate of election shall be granted to any candidate until the candidate or his treasurer has filed the statements referring to the election he is required to file under this Article. Within 24 hours after reaching a decision that a declaration of nomination or certificate of election should not be granted, the Board shall give written notice of that decision, by telegraph or certified mail, to the candidate and the candidate's treasurer. Failure to grant certification shall not affect a successful candidate's title to an office to which he has been otherwise duly elected.

“§ 163-278.19. *Appeals from State Board of Elections; early docketing.*—Any candidate for nomination or election who is denied a declaration of nomination

or certificate of election, pursuant to G.S. 163-278.18, may, within five days after the action of the Board under that section, appeal to the Superior Court of Wake County for a final determination of any questions of law or fact which may be involved in the Board's action. The cause shall be entitled 'In the Matter of the Candidacy of \_\_\_\_\_.' It shall be placed on the civil docket of that court and shall have precedence over all other civil actions. In the event of an appeal, the Chairman of the Board shall certify the record to the clerk of that court within five days after the appeal is noted.

The record on appeal shall consist of all reports filed by the candidate or his treasurer with the Board pursuant to this Article, and a memorandum of the Board setting forth with particularity the reasons for its action in denying the candidate a declaration of nomination or certificate of election. Written notice of the appeal shall be given to the Board by the candidate or his attorney, and may be effected by mail or personal delivery. On appeal, the cause shall be heard *de novo*.

"§ 163-278.20. *Penalty for violations; duty to report and prosecute.*—(a) Any individual, candidate, political committee, treasurer, person or media who violates the provisions of G.S. 163-278.2, 163-278.3, -278.4, -278.5, -278.6, -278.7, -278.8, -278.9, -278.10, or -278.11, is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) if an individual, and not more than five thousand dollars (\$5,000) if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

- (1) in the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the solicitor (district attorney) of the solicitorial district in which the candidate for nomination or election resides;
- (2) in the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, Judge of a Superior Court, Judge of a District Court, and solicitor (district attorney) of the Superior Court: report to the solicitor (district attorney) of the solicitorial district in which Wake County is located;
- (3) in the case of an individual other than a candidate, including, without limitation, violations by members of political committees or treasurers: report to the solicitor (district attorney) of the solicitorial district in which the individual resides; and
- (4) in the case of a person or any group of individuals: report to the solicitor (district attorney) or solicitors (district attorneys) the solicitorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate solicitor (district attorney) shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

“§ 163-278.21. *Issuance of injunctions; special prosecutors named.*—(a) The superior courts of this State shall have jurisdiction to issue injunctions or grant any other equitable relief appropriate to enforce the provisions of this Article upon application by any registered voter of the State.

(b) If the Board makes a report to a solicitor (district attorney) under G.S. 163-278.20 and no prosecution is initiated within 45 days after the report is made, any registered voter of the solicitorial district to whose solicitor (district attorney) a report has been made, or any board of elections in that district, may, by verified affidavit, petition the superior court for that district for the appointment of a special prosecutor to prosecute the individuals or persons who have or who are believed to have violated any section of this Article. Upon receipt of a petition for the appointment of a special prosecutor, the superior court shall issue an order to show cause, directed at the individuals or persons alleged in the petition to be in violation of this Article, why a special prosecutor should not be appointed. If there is no answer to the order, the court shall appoint a special prosecutor. If there is an answer, the court shall hold a hearing on the order, at which both the petitioning and answering parties may be heard, to determine whether a prima facie case of a violation and failure to prosecute exists. If there is such a prima facie case, the court shall so find and shall thereupon appoint a special prosecutor to prosecute the alleged violators. The special prosecutor shall take the oath required of assistant solicitors (district attorneys) by G.S. 7A-63, shall serve as an assistant solicitor (district attorney) pro tem of the appropriate district, and shall prosecute the alleged violators.

“§ 163-278.22. *Compelling self-incriminating testimony; individual so testifying excused from prosecution.*—No individual shall be excused from attending or testifying or producing any books, papers, or other documents before any court upon any proceeding or trial of another for the violation of any of the provisions of this Article, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but such individual may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this Article; but such individual shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be compelled to testify or produce evidence, documentary or otherwise, and no compelled testimony so given or produced shall be used against him upon any criminal proceeding, but such individual so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof.

“§ 163-278.23. *Candidates for federal offices to file information reports.*—Candidates for nomination in a party primary or for election in a general or special election to the offices of United States Senator, member of the United States House of Representatives, President or Vice President of the United States shall file with the Board all reports they or political committee treasurers or other agents acting for them are required to file under the Federal Election Campaign Act of 1971, P. L. 92-225, as amended (T. 2, U.S.C. sec. 439). Those reports shall be filed with the Board at the times required by that act. The Board shall, with respect to those reports, have the following duties only:

(1) to receive and maintain in an orderly manner all reports and statements required to be filed with it;

(2) to preserve such reports and statements for a period of five years from date of receipt, except that reports and statements relating solely to candidates for the offices of United States Senator or President or Vice President of the United States shall be preserved for 10 years from the date of receipt;

(3) to make the reports and statements filed with it available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which they were received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any individual, at the expense of such individual; and

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

“§ 163-278.24. *Statements under oath.*—Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be verified by the oath or affirmation of the individual, media, candidate, treasurer or others filing the statement, taken before any officer authorized to administer oaths; provided further that the candidate shall certify as true and correct to the best of his knowledge each report filed by a treasurer appointed by him or by his principal campaign committee.

“§ 163-278.25. *Filings.*—All reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery or by registered mail, return receipt requested, addressed to the Board. Filing shall be complete on the day the reports, statements or other documents are delivered to the Board.

“§ 163-278.25A. *Limitation on media expenses in certain statewide races.*—No political treasurers shall make or authorize any expenditure that will cause the total amount expended for media as defined in G.S. 163-278.1 to exceed ten cents (10¢) multiplied by the voting age population of North Carolina, estimated for that election by the U. S. Department of Commerce and published in the *Federal Register*. For the purpose of this subsection the first primary, the second primary, and general election shall be deemed separate elections or election time segments whether or not the candidate has opposition in the respective elections.

This subsection shall apply only to the following officers: Governor, Lieutenant Governor, and Council of State. Any political treasurer who violates this subsection shall be guilty of a misdemeanor and shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than one year, or both.

“§ 163-278.26. *Preservation of records.*—All reports, records and accounts required by this Article to be made, kept, filed, or maintained by any individual, media, candidate or treasurer shall be preserved and retained by the individual, media, candidate or treasurer for at least two years counting from the date of the election to which such reports, records and accounts refer.”

**Sec. 2. Partial invalidity.** If any provision of this Article, or the application thereof to any individual, person or circumstances is held invalid, the validity of the remainder of this Article and the application of such provisions to other individuals, persons and circumstances shall not be affected thereby.

**Sec. 3.** Article 22 of Chapter 163 of the General Statutes shall not be applicable to any of the offices covered by this act.

**Sec. 4.** A new section is added to General Statutes Chapter 163 to read as follows:

“§ 163-26. *Executive Secretary-Director of State Board of Elections.*—There is hereby created the position of Executive Secretary-Director of the State Board of Elections, who shall perform all duties imposed upon him by statute and such duties as might be assigned to him by the State Board of Election.”

**Sec. 5.** This act shall become effective July 1, 1974, and the first report required under this act shall be filed no later than September 1, 1974, prior to the November, 1974, General Election, and shall include all contributions received and all expenditures made commencing with the period 10 days following the 1974 primary elections.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1441

**CHAPTER 1273**

**AN ACT TO APPOINT MEMBERS OF THE CALDWELL COUNTY BOARD OF EDUCATION AND TO PROVIDE FOR SUBSEQUENT ELECTION OF MEMBERS OF THE CALDWELL COUNTY BOARD OF EDUCATION.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Caldwell County Board of Education shall consist of seven persons. The following named persons are hereby appointed to the Caldwell County Board of Education to serve terms as set forth in Section 2 of this act: Dr. Allen R. Hefner, James L. Clark, Barbara Deverick, Marcus Deal, Janet Wilson, Roy Reid, and Robert N. Styres. Successors to the initial appointees shall be elected in a nonpartisan election as provided herein.

**Sec. 2.** The terms of office of Marcus Deal, Janet Wilson, and Robert N. Styres shall expire on the first Monday of the month following the General Election in 1974. The terms of office of Roy Reid and Barbara Deverick shall expire on the first Monday of the month following the General Election in 1976. The terms of office of Allen R. Hefner and James L. Clark shall expire on the first Monday of the month following the General Election in 1978.

**Sec. 3.** The full term of office of members of the Caldwell County Board at the expiration of terms specified in Section 2 above shall be for four years each and until their successors shall be elected and qualified; provided, however, that in the General Election to be held in 1974, the two candidates receiving the largest number of votes for the three available seats shall be elected for four-year terms, such terms to expire on the first Monday of the month following the General Election in 1978, and the candidate receiving the third largest number of votes shall be elected for a two-year term, such term to expire on the first Monday of the month following the General Election in 1976. In the General Election to be held in 1976, three members shall be elected to fill the three terms then expiring and in 1978 four members shall be elected to fill the four terms then expiring. In the General Elections thereafter, either three or four members shall be elected for four-year terms to fill the terms as they expire.

**Sec. 4.** All candidates for membership on the Caldwell County Board of Education shall file for a nonpartisan election with the Caldwell County Board

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of Elections a notice of such candidacy by noon on the last Monday in August prior to the General Election, and this election shall be held at the time of said General Election. Each candidate shall pay a filing fee of five dollars (\$5.00) and in addition shall certify in writing that he is a bona fide resident of Caldwell County and a qualified registered voter therein. Persons elected shall assume office on the first Monday of December following the General Election. The requirements set forth in this section, together with such requirements as are now or may be hereafter provided for by the North Carolina General Statutes, are inclusive and constitute the sole criteria for membership on the Caldwell County Board of Education.

**Sec. 5.** All persons registered and qualified to vote in Caldwell County in accordance with the General Election laws of North Carolina shall be eligible to vote in the nonpartisan election for the members of the Caldwell County Board of Education.

**Sec. 6.** In the event of a vacancy on the Caldwell County Board of Education by reason of death, resignation, or a member's failing to meet residency requirements as set forth above, or for other reasons, the remaining members of the Caldwell County Board of Education shall appoint a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

**Sec. 7.** All the authority, powers and duties, express or implied, vested in county boards of education, generally, by Chapter 115 of the General Statutes of North Carolina, and all revisions and amendments thereto, are vested in the Caldwell County Board of Education, to the extent that they are not in conflict with the provisions of this act.

**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1467

## CHAPTER 1274

AN ACT TO AMEND G.S. 62-119(3) AS THE SAME RELATES TO RADIO COMMON CARRIERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-119(3) is hereby amended by omitting on line 4 after the word "a" the words "radio common carrier engaged in the"; on line 5 inserting after the word "providing" the words "or offering" and on line 5 inserting after the word "service" the words "for hire to the public" and on line 5 inserting after the word "radio" the words "or radiotelephone"; on line 6 inserting after the word "...munications" the words "whether interconnected with the landline telephone system or not" and on line 6 omitting after the word "licensed" the words "as a miscellaneous common carrier".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1475      **CHAPTER 1275**

AN ACT TO AMEND CHAPTER 163 OF THE GENERAL STATUTES TO SET A DATE BY WHICH ABSENTEE BALLOTS FOR VOTING IN PRIMARY ELECTIONS MUST BE MADE AVAILABLE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 20 of Chapter 163 of the General Statutes is hereby amended by adding a new section therein as follows:

“§ 163-227.3. *Date by which absentee ballots must be available for voting in primary elections.*—Notwithstanding provisions contained in Article 20 and Article 21 to the contrary, the State Board of Elections may, if necessary, provide absentee ballots of the kinds to be furnished by the State Board, to the County Boards of Elections 40 days prior to the date on which the primary shall be conducted. This section is applicable only to primary election ballots.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1054      **CHAPTER 1276**

AN ACT TO REWRITE G.S. 36-47, RELATING TO ESTABLISHMENT OF COMMON TRUST FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 36-47 of the General Statutes is hereby rewritten to read as follows:

“§ 36-47. *Establishment of common trust funds.*—(a) Any bank or trust company duly authorized to act as a fiduciary in this State may establish and maintain one or more common trust funds for the collective investment of funds held in a fiduciary capacity by such bank or trust company hereafter referred to as the ‘maintaining bank’. The maintaining bank may include for the purposes of collective investment in such common trust fund or funds established and maintained by it, funds held in a fiduciary capacity by any other bank or trust company duly authorized to act as a fiduciary, wherever located, which other bank or trust company is hereinafter referred to as the ‘participating bank’.

Provided however, that the relationship between the maintaining bank and the participating bank is (1) the maintaining bank owns, controls or is affiliated with the participating bank or (2) a bank-holding company owns, controls or is affiliated with both the maintaining bank and the participating bank.

For the purposes of this act, a bank or trust company shall be considered to be owned, controlled or affiliated if 25% or more of any class of its voting stock is owned by a bank or bank-holding company or if 25% or more of any class of its voting stock is owned by one person or no more than ten persons who are the same person or persons who own 25% or more of any class of the voting stock of the maintaining bank.

Such common trust funds may include a fund composed solely of funds held under an agency agreement in which the bank or trust company assumes investment discretion and assumes fiduciary responsibility.

(b) Such bank or trust company may invest the funds held by it in any fiduciary capacity in one or more common trust funds, provided (1) such investment is not prohibited by the instrument, judgment, decree or order

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creating such fiduciary relationship or amendment thereof; (2) in the case of co-fiduciaries the written consent of the co-fiduciary is obtained by the bank or trust company; and (3) that the bank has no interest in the assets of the common trust fund other than as a fiduciary.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1055                      **CHAPTER 1277**

AN ACT TO ENABLE A FIDUCIARY TO HOLD BANK HOLDING COMPANY STOCK WHERE THE INSTRUMENT AUTHORIZES RETENTION OF STOCK OF A BANK THAT IS NOW PART OF THE HOLDING COMPANY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 1 of Chapter 36 of the General Statutes is amended by adding a new section thereto, to read as follows:

“§ 36-5.2. *Holding company stock; fiduciary may hold.*—A fiduciary holding funds for investment who is specifically directed or authorized by an instrument creating the fiduciary relationship to retain the stock of a bank or trust company that is a member of a bank holding company currently fully registered under an act of Congress entitled ‘Bank Holding Company Act of 1956’, as the same may be amended from time to time, shall be considered as being directed or authorized to retain the stock of such bank holding company. This section shall apply to any fiduciary relationship now in existence or which may hereafter come into existence and to all investments now held or which may hereafter be acquired in such relationship.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1516                      **CHAPTER 1278**

AN ACT TO AMEND THE GENERAL STATUTES RELATING TO MEDICAL AND DISABILITY BENEFITS FOR TEACHERS AND STATE EMPLOYEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-33 is hereby amended by adding the following sentence at the end thereof:

“Notwithstanding any provisions of this section to the contrary any member who was vested at the time of retirement may obtain or continue coverage for himself and dependents provided he pays the established applicable premium for the plan or plans of insurance as determined by the Board of Trustees of the Teachers and State Employees Retirement System based on actuarial experience.”

**Sec. 2.** G.S. 135-34 is hereby amended by adding the following sentence at the end thereof:

“Benefits provided under this program of disability salary continuation shall not be reduced in any manner as a result of social security payments received with respect to any dependent or dependents of the disabled employee or as a

result of compensation received from the Veterans Administration of the United States for disease or disability incurred while a member of the armed forces of the United States.”

**Sec. 3.** G.S. 135-36, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by removing the period at the end of the sentence, substituting therefor a semicolon, and adding the following: “provided that persons employed on a permanent part-time basis designated as half-time or more may obtain for themselves and their dependents the benefits established in G.S. 135-33, as amended, by the payment of the entire premium for the persons so covered.”

**Sec. 4.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 1592                      CHAPTER 1279**

**AN ACT MAKING IT UNLAWFUL TO REPRODUCE FOR PROFIT  
RECORDED SOUNDS WITHOUT THE CONSENT OF THE OWNER.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14 of the General Statutes is hereby amended by inserting therein a new Article 56A to read as follows:

“Article 56A.

“Records, Tapes and Other Recorded Devices.

“§ 14-426.1. ‘Owner’ defined.—As used in this Article ‘owner’ means the person who owns any master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is recorded and from which the transferred sounds are directly or indirectly derived.

“§ 14-426.2. *Recording of live concerts or recorded sounds and distribution, etc., of such recordings unlawful in certain circumstances.*—It shall be unlawful for any person to: (1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds at a live concert or any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with the intent to sell or cause to be sold, or to be used for profit through public performance, such article on which sounds are so transferred, without consent of the owner; or

(2) Manufacture, distribute or wholesale any article with the knowledge that the sounds are so transferred, without consent of the owner.

This section shall not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with broadcast or telecast transmission or related uses, or for archival purposes.

“§ 14-426.3. *Retailing, etc., of certain recorded devices unlawful.*—It shall be unlawful for any person to knowingly retail or possess for the purpose of retailing any recorded device that has been produced, manufactured, distributed, or acquired at wholesale in violation of any provision of this Chapter.

“§ 14-426.4. *Recorded devices to show true name of manufacturer.*—Ninety days after January 1, 1975, every recorded device sold or transferred or possessed for the purpose of sale by any manufacturer, distributor, or wholesale or retail merchant shall contain on its packaging the true name of the

manufacturer. The term 'manufacturer' shall not include the manufacturer of the cartridge or casing itself.

"§ 14-426.5. *Recorded devices - civil action for damages.*—Any owner of a recorded device as defined in this Chapter whose work is allegedly the subject of a violation of G.S. 14-426.2 or G.S. 14-426.3, shall have a cause of action in the courts of this State for all damages resulting therefrom, including actual, compensatory and incidental damages.

"§ 14-426.6 *Violation of Article a misdemeanor.*—Every individual manufacture, distribution, sale or transfer of such recorded devices in contravention of the provisions of this Article shall constitute a misdemeanor punishable by six months in jail, a fine of up to five hundred dollars (\$500.00), or both."

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1599

## CHAPTER 1280

AN ACT TO PROVIDE THAT VISUALLY HANDICAPPED PERSONS SHALL BE GRANTED PREFERENCE IN THE OPERATION OF VENDING FACILITIES ON STATE PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 111 of the General Statutes is hereby amended by adding a new Article 3 thereto:

"Article 3.

"Operation of Vending Facilities on State Property.

"§ 111-41. *Preference to visually handicapped persons in operation of vending facilities; responsibility of Department of Human Resources.*—In order to promote the employment and the self-sufficiency of visually handicapped persons in North Carolina, State agencies shall upon the request of the Department of Human Resources give preference to visually handicapped persons in the operation of vending facilities on State property. The Department of Human Resources shall encourage and assist the operation of vending facilities by visually handicapped persons.

"§ 111-42. *Definitions as used in this Article.*—(1) 'Regular Vending Facility' means a vending facility where food preparation or cooking is not done on the State property.

(2) 'State agency' means department, commission, agency or instrumentality of the State.

(3) 'State property or State building' means building and land owned, leased, or otherwise controlled by the State, exclusive of schools, colleges and universities, the North Carolina State Fair, and the State Legislative Building.

(4) 'Vending facility' includes a snack bar, cafeteria, restaurant, cafe, concession stand, vending stand, cart service, or other facilities at which food, drinks, novelties, newspapers, periodicals, confections, souvenirs, tobacco products or related items are regularly sold.

(5) 'Visually handicapped' means a person who is totally blind or whose vision with glasses is so defective as to prevent the performance of ordinary activity for which eyesight is essential and who is registered pursuant to G.S. 111-4.

“§ 111-43. *Installation of coin operated vending machines.*—In locations where the Department determines that a vending facility may not be operated or should not continue to operate due to insufficient revenues, the Department shall have the first opportunity to secure, by negotiation of a contract with one or more licensed commercial vendors, coin operated vending machines for the location. Profits from coin operated vending machines secured by the Department shall be used by the Department for the support of vending facilities operated by the visually handicapped.

“§ 111-44. *Location and services provided by State agency.*—If the Department of Human Resources shall determine that a location is suitable for the operation of a vending facility by a visually handicapped person, the State agency with authority over the location shall provide proper space, plumbing, lighting, and electrical outlets for the vending facility in the original planning and construction, or in alteration and renovation of present location. The State agency shall provide necessary utilities, janitorial services and garbage disposal for the operation of the vending facility. Space for the vending facilities and service therefor shall be provided without charge.

“§ 111-45. *Duty of State agency to inform Department.*—It shall be the duty of the State agencies to inform the Department of existing and prospective locations for vending facilities and coin operated vending machines and to prescribe regulations (upon request of the Department) to promote the successful operation of the vending facilities of the visually handicapped.

“§ 111-46. *Vending facilities operated by those other than visually handicapped persons.*—Where vending facilities on State property are operated by those other than the visually handicapped persons on the date of enactment of this Article, the contract of these vending facilities shall not be renewed or extended unless the Secretary of the Department of Human Resources is notified thereof and he determines within 30 days of such notification that the vending facilities are not, or cannot become, suited for operation by the visually handicapped. However, if the Secretary of the Department of Human Resources within 30 days of the date of such notification fails to provide for the operation of the vending facilities by the visually handicapped, the existing contract may be renewed or extended.

“§ 111-47. *Exclusions.*—This Article is not intended to cover food services provided by hospitals or residential institutions as a direct service to patients, inmates, trainees, or otherwise institutionalized persons.

“§ 111-48. This act shall not prohibit the continued use of coin operated vending machines currently the property of the Division of Services for the Blind of the Department of Human Resources and now part of the vending stand program.

“§ 111-49. *Severability.*—If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1611

CHAPTER 1281

AN ACT TO REWRITE CHAPTER 35, ARTICLE 7, OF THE GENERAL STATUTES ENTITLED "PERSONS WITH MENTAL DISEASES AND INCOMPETENTS".

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 7 of Chapter 35 of the General Statutes of North Carolina is hereby rewritten to read:

"Article 7.

"Sterilization of Persons Mentally Ill and Mentally Retarded.

"§ 35-36. *Sterilization of mental defectives in State institutions.*—The responsible director, or other public official performing the functions of such director, of any institution supported wholly or in part by the State of North Carolina is hereby authorized to petition the district court of the county in which such institution is located for the sterilization operation of any mentally ill or retarded resident or patient thereof as may be considered in the best interest of the mental, moral, or physical improvement of the resident or patient, or for the public good, provided, that no operation authorized in this section shall be lawful unless and until the provisions of this Article shall first be complied with. It shall be the responsibility of the State institution to provide or pay for the cost and expense of the operations authorized in this section for those persons residents or patients in State institutions.

"§ 35-37. *Sterilization of mental defectives not in State institutions.*—The county director of social services, or other public official performing the functions of such director, is hereby authorized to petition the district court of his county for the sterilization operation of any mentally ill or retarded resident of the county, not a resident or patient of any State institution, or of any mentally ill or retarded person who is on parole from a State institution considered in the best interest of the mental, moral, or physical improvement of such resident, or for the public good, provided that no operation authorized in this section shall be lawful unless and until the provisions of this Article shall first be complied with. It shall be the responsibility of the board of commissioners of the respective counties to provide or pay for the cost and expense of the operations authorized in this section for those persons residents in their respective counties.

"§ 35-38. *Who shall perform sterilization operations upon the mental defectives.*—No operation under this Article shall be performed by other than a duly qualified and licensed North Carolina physician or surgeon, pursuant to Chapter 90 of the General Statutes as amended, and by him only upon a written order signed by the court having authority under the provisions of either G.S. 35-41 or G.S. 35-42. The petitioner will select the physician or surgeon to perform the sterilization operation and notify the patient and next of kin. If however, the patient or next of kin wishes to select a physician or surgeon other than the one selected by the petitioner, it will be the responsibility of the patient or next of kin to pay for the costs and expense of the sterilization operation. In the event the patient or next of kin is unable to provide for payment of the physician or surgeon selected by them, the operation will be performed by the physician or surgeon selected by the petitioner.

“§ 35-39. *Duty of petitioner.*—It shall be the duty of such petitioner promptly to institute proceedings as provided by this Article in any of the following circumstances:

(1) When in his opinion it is for the best interest of the mental, moral or physical improvement of the patient, resident of an institution, or noninstitutional individual, that he or she be sterilized.

(2) When in his opinion it is for the public good that such patient, resident of an institution, or noninstitutional individual be sterilized.

(3) When in his opinion such patient, resident of an institution, or noninstitutional individual would be likely, unless sterilized, to procreate a child or children who would have a tendency to serious physical, mental, or nervous disease or deficiency; or, because of a physical, mental, or nervous disease or deficiency which is not likely to materially improve, the person would be unable to care for a child or children.

(4) When requested to do so in writing by the next of kin or legal guardian of such patient, resident of an institution, or noninstitutional individual.

“§ 35-39.1. *Contents of petition.*—The petition shall contain allegations of the results of psychological or psychiatric tests supporting the assertion that such person is subject to the provisions of this Article; shall contain the statement of a physician who has examined such person affirming whether or not there is any known contraindication to the requested surgical procedure; shall state the name and address of the physician or surgeon who will perform the operation; and shall contain the written consent or objection of the next of kin, the legal guardian or, if there is no next of kin and no known legal guardian a guardian ad litem who shall be appointed by the district court judge and who shall make investigation and report to the court before the hearing shall commence. The petition should also contain the consent or objection of the person upon whom the sterilization operation is to be performed. In the event the person upon whom the operation is to be performed is not capable of giving consent or objection, there must be a certification by the petitioner that the procedure has been explained to the person upon whom the operation is to be performed.

“§ 35-39.2. *Copy of petition served on patient.*—At least 20 days prior to the hearing on the petition in the district court, a copy of such petition must be served upon the resident of the institution, patient, or noninstitutional individual and to the legal or natural guardian, guardian ad litem, or next of kin of the resident of the institution, patient, or noninstitutional individual.

“§ 35-40. *Judge to order investigation.*—If the petitioner instituting the sterilization proceedings is other than the county director of social services the judge shall order the county director of social services in the county in which the person upon whom the operation is to be performed has domicile to investigate and make recommendations to him regarding the case.

“§ 35-41. *Hearing before the judge of district court.*—Should the petitioner, the person subject to the petition, or any other interested party request a hearing, a hearing shall be held in the district court before the judge without a jury. In the absence of written objection filed with the court by the person alleged to be subject to this section or by any other interested party on his or her behalf, the court may render judgment without the appearance of witnesses. In the event a hearing is requested the district attorney for the district in which the petition is heard or the district attorney's assistant shall present the

evidence for the petitioner. The respondent shall be entitled to examine the petitioner's witnesses and shall be entitled to present evidence in his own behalf. If the judge of the district court shall find from the evidence that the person alleged to be subject to this section is subject to it and that because of a physical, mental, or nervous disease or deficiency which is not likely to materially improve, the person would probably be unable to care for a child or children; or, because the person would be likely, unless sterilized, to procreate a child or children which probably would have serious physical, mental, or nervous diseases or deficiencies, he shall enter an order and judgment authorizing the physician or surgeon named in the petition to perform the operation.

"§ 35-42. *Appeal to superior court.*—An appeal to the superior court may be had by the person alleged to be subject to this section or any other interested party on such judgment in the district court if filed within 15 days following the date the court judgment is entered. The proceedings before the superior court shall constitute a trial de novo, and upon application of either party shall be heard before a jury. The District Attorney for the district in which the petition is heard or his assistant shall present the evidence for the petitioner. The respondent shall be entitled to examine the petitioner's witnesses and to present evidence in his own behalf. Any decision of the superior court in such cases may be appealed to the appellate courts as in other civil cases. The cost of the appeal, if any, to the superior court and higher courts shall be taxed as in other civil cases and the pendency of any appeal shall stay the proceedings in the lower court until the appeal be finally determined. Pauper's affidavits regarding court costs and costs of appeal may be filed as in other cases made and provided by the laws of this State.

"§ 35-43. *Right to counsel.*—The person alleged to be subject to the provisions of this section shall have the right to counsel at all stages of the proceedings provided for herein. This person and all others served with the notification provided for in G.S. 35-39.2 shall be fully informed of the person's entitlement to counsel at the time of this service of notice. This information shall be given in language and in a manner calculated to insure, insofar as such is possible in view of the individual's capability to comprehend it, that the recipient understands the entitlement. Every person subject to be sterilized under this Article after the filing of the petition shall have counsel at every stage of the proceedings. If there is a conflict between the election of the person concerned and that of the other persons being served with notice, determination of the question of representation by counsel shall be made by the court having jurisdiction of the case. The person concerned may, in any instance, be represented by counsel retained by him. In cases of claimed indigency, a request for counsel shall be processed in the manner provided for in Subchapter IX, Chapter 7A, General Statutes of North Carolina.

"§ 35-44. *Sterilization procedure to be performed after court judgment.*—After judgment of the court in accordance with G.S. 35-41 and G.S. 35-42 shall have become final to the effect that such sterilization shall be performed upon such person subject to this section, a sterilization procedure may be performed by a physician upon such person subject to this section.

"§ 35-44.1. *Sterilization procedure defined.*—Wherever used in this section, the words 'sterilization procedure' shall include and authorize the performance by the physician of any procedure or operation deemed to be in the best interest

of the individual patient or intended to prevent conception, but does not include castration.

“§ 35-44.2. *Civil or criminal liability of parties limited.*—When an operation shall have been performed in compliance with the provisions of this law, no physician duly licensed without restriction to practice medicine and surgery in this State or other person legally participating in the execution of the provisions of this act shall be liable civilly or criminally on account of such operation or participation therein, except in the case of negligence in the performance of said procedures.

“§ 35-44.3. *Necessary medical treatment unaffected by Article.*— Nothing in this section shall be construed so as to require compliance with this section or to prevent the medical or surgical treatment for sound therapeutic purposes of any person in this State, by a physician duly licensed without restriction to practice medicine and surgery in this State, which treatment may involve the nullification or destruction of the reproductive functions at the same time that it serves such sound therapeutic purposes.

“§ 35-44.4. *Hospitals not compelled to admit patient.*— Nothing in this section shall require a hospital to admit any patient under the provisions hereof for the purpose of performing a sterilization procedure.”

**Sec. 2.** This act shall become effective on and after January 1, 1975.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 1764 CHAPTER 1282**

**AN ACT TO AMEND G.S. 105-147 TO ALLOW A DEDUCTION FOR THE COST OF A SEEING-EYE DOG.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-147 is hereby amended by adding after current subsection (24), a new subsection (25) to read as follows:

“(25) The purchase price of a seeing-eye dog actually purchased and used by a person who is blind, and/or all of the cost of maintenance and upkeep of a seeing-eye dog, including veterinary expenses. The amount claimed under this subsection shall not be allowed as a deduction under G.S. 105-147(11).”

**Sec. 2.** This act shall become effective January 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 2125 CHAPTER 1283**

**AN ACT RELATING TO ZONING IN MECKLENBURG COUNTY AND THE CITY OF CHARLOTTE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The governing bodies of Mecklenburg County and the City of Charlotte, in addition to the authority conferred upon them by the General or local law, are hereby empowered by ordinance to regulate in any portion or portions of the City of Charlotte and the County of Mecklenburg within their existing zoning jurisdictions the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses

of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the City and County may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this act; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts; provided, however, that the City and County may provide for the creation of special use districts in addition to general use districts.

It is the purpose and intent of this act to permit the City and County to create general use districts in which a variety of uses are permitted, and to also create special use districts in which a single use is permitted upon the issuance by the governing body of a special use permit prescribing the conditions under which such use will be permitted.

A person petitioning for rezoning of a tract of land, where special use districts are authorized by ordinance, may elect to request general use district zoning for said tract, or he may elect to request special use district zoning for said tract.

If the petitioner elects to petition for general use district zoning, the governing body may not consider the intended use in determining whether to approve or disapprove the petition, but shall consider the full range of uses permitted within the requested general use district. If the petition is approved, the rezoned property may be used for any of the uses permitted in the applicable general use district.

If the petitioner elects to petition for special use district zoning, the petition must specify the actual use intended for the property specified in the petition, and the intended use must be one permitted in the corresponding general use district. If the petition is for special use district zoning, the governing body is to approve or disapprove the petition on the basis of the specific use requested. If the petition is approved, the governing body shall issue a special use permit authorizing the requested use with such reasonable conditions as the governing body determines to be desirable in promoting public health, safety and general welfare.

The conditions contained in a special use permit issued by the governing body may include: location of the proposed use on the property; the number of dwelling units; the location and extent of support facilities such as parking lots, driveways, and access streets; location and extent of buffer areas and other special purpose areas; the timing of development; and such other matters as the governing body may find appropriate or the petitioner may propose, but not to include architectural review or controls.

It is the further intent of this section to permit the creation of districts for specific uses and the imposition of reasonable conditions in order to secure the public health, safety and welfare, and insure that substantial justice be done.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 972

## CHAPTER 1284

## AN ACT RELATING TO MANAGEMENT OF THE COASTAL AREA OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. Chapter 113A is hereby amended by adding thereto a new Article 7, to be entitled "Coastal Area Management", and to read as follows:

"Article 7.

"Coastal Area Management.

"Part 1. Organization and Goals.

"§ 113A-100. *Short title.*—This Article shall be known as the Coastal Area Management Act of 1974.

"§ 113A-101. *Cooperative State-local program.*—This Article establishes a cooperative program of coastal area management between local and State governments. Local government shall have the initiative for planning. State government shall establish areas of environmental concern. With regard to planning, State government shall act primarily in a supportive standard-setting and review capacity, except where local governments do not elect to exercise their initiative. Enforcement shall be a concurrent State-local responsibility.

"§ 113A-102. *Legislative findings and goals.*—(a) Findings. It is hereby determined and declared as a matter of legislative finding that among North Carolina's most valuable resources are its coastal lands and waters. The coastal area, and in particular the estuaries, are among the most biologically productive regions of this State and of the nation. Coastal and estuarine waters and marshlands provide almost 90 percent (90%) of the most productive sport fisheries on the east coast of the United States. North Carolina's coastal area has an extremely high recreational and esthetic value which should be preserved and enhanced.

In recent years the coastal area has been subjected to increasing pressures which are the result of the often conflicting needs of a society expanding in industrial development, in population, and in the recreational aspirations of its citizens. Unless these pressures are controlled by coordinated management, the very features of the coast which make it economically, esthetically, and ecologically rich will be destroyed. The General Assembly therefore finds that an immediate and pressing need exists to establish a comprehensive plan for the protection, preservation, orderly development, and management of the coastal area of North Carolina.

In the implementation of the coastal area management plan, the public's opportunity to enjoy the physical, esthetic, cultural, and recreational qualities of the natural shorelines of the State shall be preserved to the greatest extent feasible; water resources shall be managed in order to preserve and enhance water quality and to provide optimum utilization of water resources; land resources shall be managed in order to guide growth and development and to minimize damage to the natural environment; and private property rights shall be preserved in accord with the Constitution of this State and of the United States.

(b) Goals. The goals of the coastal area management system to be created pursuant to this Article are as follows:

- (1) To provide a management system capable of preserving and managing the natural ecological conditions of the estuarine system, the barrier dune system, and the beaches, so as to safeguard and perpetuate their natural productivity and their biological, economic and esthetic values;
- (2) To insure that the development or preservation of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water for development, use, or preservation based on ecological considerations;
- (3) To insure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation;
- (4) To establish policies, guidelines and standards for:
  - (i) Protection, preservation, and conservation of natural resources including but not limited to water use, scenic vistas, and fish and wildlife; and management of transitional or intensely developed areas and areas especially suited to intensive use or development, as well as areas of significant natural value;
  - (ii) The economic development of the coastal area, including but not limited to construction, location and design of industries, port facilities, commercial establishments and other developments;
  - (iii) Recreation and tourist facilities and parklands;
  - (iv) Transportation and circulation patterns for the coastal area including major thoroughfares, transportation routes, navigation channels and harbors, and other public utilities and facilities;
  - (v) Preservation and enhancement of the historic, cultural, and scientific aspects of the coastal area;
  - (vi) Protection of present common law and statutory public rights in the lands and waters of the coastal area;
  - (vii) Any other purposes deemed necessary or appropriate to effectuate the policy of this Article.

“§ 113A-103. *Definitions.*—As used in this Article:

(1) ‘Advisory Council’ means the Coastal Resources Advisory Council created by G.S. 113A-105.

(2) ‘Coastal area’ means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the ‘coastal area’, as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. The said coastal area counties and cities shall thereafter transmit nominations to the

Governor of members of the Coastal Resources Commission as provided in G.S. 113A-104(d).

(3) 'Coastal sound' means Albemarle, Bogue, Core, Croatan, Currituck, Pamlico and Roanoke Sounds. For purposes of this Article, the inland limits of a sound on a tributary river shall be defined as the limits of seawater encroachment on said tributary river under normal conditions. 'Normal conditions' shall be understood to include regularly occurring conditions of low stream flow and high tide, but shall not include unusual conditions such as those associated with hurricane and other storm tides. Unless otherwise determined by the Commission, the limits of seawater encroachment shall be considered to be the confluence of a sound's tributary river with the river or creek entering it nearest to the farthest inland movement of oceanic salt water under normal conditions. For purposes of this Article, the aforementioned points of confluence with tributary rivers shall include the following:

- (a) On the Chowan River, its confluence with the Meherrin River;
- (b) On the Roanoke River, its confluence with the northeast branch of the Cashie River;
- (c) On the Tar River, its confluence with Tranters Creek;
- (d) On the Neuse River, its confluence with Swift Creek;
- (e) On the Trent River, its confluence with Ready Branch.

Provided, however, that no county shall be considered to be within the coastal area which: (a) is adjacent to, adjoining or bounded by any of the above points of confluence and lies entirely west of said point of confluence; or (b) is not bounded by the Atlantic Ocean and lies entirely west of the westernmost of the above points of confluence.

(4) 'Commission' means the Coastal Resources Commission created by G.S. 113A-104.

(5) (a) 'Development' means any activity in a duly designated area of environmental concern (except as provided in paragraph (b) of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.

(b) The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

- (i) Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing right-of-way;
- (ii) Work by any railroad company or by any utility and other persons engaged in the distribution and transmission of petroleum products, water, telephone or telegraph messages, or electricity for the purpose of inspecting, repairing, maintaining, or upgrading any existing substations, sewers, mains, pipes, cables, utility tunnels, lines, towers, poles, tracks, and the like on any of its existing railroad or utility property or rights-of-way, or the extension of any of the above

- distribution-related facilities to serve development approved pursuant to G.S. 113A-121 or 113A-122;
- (iii) Work by any utility and other persons for the purpose of construction of facilities for the development, generation, and transmission of energy to the extent that such activities are regulated by other law or by present or future rules of the State Utilities Commission regulating the siting of such facilities (including environmental aspects of such siting), and work on facilities used directly in connection with the above facilities;
  - (iv) The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;
  - (v) Emergency maintenance or repairs;
  - (vi) The construction of any accessory building customarily incident to an existing structure if the work does not involve filling, excavation, or the alteration of any sand dune or beach.
  - (vii) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to ratification of this Article and which development was initiated prior to the ratification of this Article.
  - (viii) Completion of installation of any utilities or roads or related facilities not otherwise in violation of law, within a subdivision that was duly approved and recorded prior to the ratification of this Article and which installation was initiated prior to the ratification of this Article.
  - (ix) Construction or installation of any development, not otherwise in violation of law, for which an application for a building or zoning permit was pending prior to the ratification of this Article and for which a loan commitment (evidenced by a notarized document signed by both parties) had been made prior to the ratification of this Article; provided, said building or zoning application is granted by July 1, 1974.
  - (x) It is the intention of the General Assembly that if the provisions of any of the foregoing paragraphs (i) - (ix) of this subsection are held invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal protection of the laws, within the meaning of Article I, Sections 19 and 32 of the North Carolina Constitution, the remainder of this Article shall be given effect without the invalid provision or provisions.
- (c) The Commission shall define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article, in addition to the exclusions set forth in paragraph (b) of this subdivision. In developing such rules the Commission shall consider, with regard to the class or classes of units to be exempted:
- (i) The size of the improvement or scope of the maintenance work;
  - (ii) The location of the improvement or work in proximity to dunes,

waters, marshlands, areas of high seismic activity, areas of unstable soils or geologic formations, and areas enumerated in G.S. 113A-113(b)(3); and

(iii) Whether or not dredging or filling is involved in the maintenance or improvement.

(6) 'Key facilities' include the site location and the location of major improvement and major access features of key facilities, and mean:

(a) public facilities, as determined by the Commission, on non-Federal lands which tend to induce development and urbanization of more than local impact, including but not limited to:

(i) any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;

(ii) major interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways;

(iii) major frontage access streets and highways, both of State concern; and

(iv) major recreational lands and facilities;

(b) major facilities on non-Federal lands for the development, generation, and transmission of energy.

(7) 'Lead regional organizations' mean the regional planning agencies created by and representative of the local governments of a multi-county region, and designated as lead regional organizations by the Governor.

(8) 'Local government' means the governing body of any county or city which contains within its boundaries any lands or waters subject to this Article.

(9) 'Person' means any individual, citizen, partnership, corporation, association, organization, business trust, estate, trust, public or municipal corporation, or agency of the State or local government unit, or any other legal entity however designated.

(10) 'Rule' means any policy, regulation or requirement of general application adopted pursuant to this Article.

"§ 113A-104. *Coastal Resources Commission*.—(a) The General Assembly hereby establishes within the Department of Natural and Economic Resources a commission to be designated the Coastal Resources Commission.

(b) Composition: The Coastal Resources Commission shall consist of 15 members appointed by the Governor, as follows:

(1) One who shall at the time of appointment be actively connected with or have experience in commercial fishing.

(2) One who shall at the time of appointment be actively connected with or have experience in wildlife or sports fishing.

(3) One who shall at the time of appointment be actively connected with or have experience in marine ecology.

(4) One who shall at the time of appointment be actively connected with or have experience in coastal agriculture.

(5) One who shall at the time of appointment be actively connected with or have experience in coastal forestry.

(6) One who shall at the time of appointment be actively connected with or have experience in coastal land development.

(7) One who shall at the time of appointment be actively connected with or

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have experience in marine-related business (other than fishing and wildlife).

- (8) One who shall at the time of appointment be actively connected with or have experience in engineering in the coastal area.
- (9) One who shall at the time of appointment be actively associated with a State or national conservation organization.
- (10) One who shall at the time of appointment be actively connected with or have experience in financing of coastal land development.
- (11) Two who shall at the time of appointment be actively connected with or have experience in local government within the coastal area.
- (12) Three at-large members.

(c) The Governor shall appoint in his sole discretion those members of the Commission whose qualifications are described in paragraphs (6) and (10), and one of the three members described in paragraph (12) of subsection (b) of this section. The remaining members of the Commission shall be appointed by the Governor after completion of the nominating procedures prescribed by subsection (d) of this section.

(d) On or before May 1 in every even-numbered year the Governor shall designate and transmit to the board of commissioners in each county in the coastal area four nominating categories applicable to that county for that year. Said nominating categories shall be selected by the Governor from among the categories represented, respectively by paragraphs (1), (2), (3), (4), (5), (7), (8), (9), (11) - two persons, and (12) - two persons, of subsection (b) of this section (or so many of the above-listed paragraphs as may correspond to vacancies by expiration of term that are subject to being filled in that year). On or before June 1 in every even-numbered year the board of commissioners of each county in the coastal area shall nominate (and transmit to the Governor the names of) one qualified person in each of the four nominating categories that was designated by the Governor for that county for that year. In designating nominating categories from biennium to biennium, the Governor shall equitably rotate said categories among the several counties of the coastal area as in his judgment he deems best; and he shall assign, as near as may be, an even number of nominees to each nominating category and shall assign in his best judgment any excess above such even number of nominees. On or before June 1 in every even-numbered year the governing body of each incorporated city within the coastal area having a population of 2,000 or more, and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, shall nominate (and transmit to the Governor the name of) one person as a nominee to the Commission. The Governor shall appoint 12 persons from among said city and county nominees to the Commission. The several boards of county commissioners and city governing bodies shall transmit the names, addresses, and a brief summary of the qualifications of their nominees to the Governor on or before June 1 in each even-numbered year, beginning in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairmen or the mayors of the said local governing boards by May 20 in each such even-numbered year of the duties of local governing boards under this sentence. If any board of commissioners or city governing body fails to transmit its list of nominations to the Governor by June 1, the Governor may add to the nominations a list of qualified nominees in lieu of those that were not

transmitted by the board of commissioners or city governing body. Within the meaning of this section, the 'governing body' is the mayor and council of a city as defined in G.S. 160A-66. The population of cities shall be determined according to the most recent annual estimates of population as certified to the Secretary of Revenue by the Secretary of Administration.

(e) All nominees of the several boards of county commissioners and city governing bodies must reside within the coastal area, but need not reside in the county from which they were nominated. No more than one of those members appointed by the Governor from among said nominees may reside in a particular county. No more than two members of the entire Commission, at any time, may reside in a particular county. No more than two members of the entire Commission, at any time, may reside outside the coastal area.

(f) Membership on the Coastal Resources Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(g) The members shall serve staggered terms of office of four years. At the expiration of each member's term, the Governor shall reappoint or replace the member with a new member of like qualification (as specified in subsection (b) of this section), in the manner provided by subsections (c) and (d) of this section. The initial term shall be determined by the Governor in accordance with customary practice but eight of the initial members shall be appointed for two years and seven for four years.

(h) In the event of a vacancy arising otherwise than by expiration of term, the Governor shall appoint a successor of like qualification (as specified in subsection (b) of this section) who shall then serve the remainder of his predecessor's term. When any such vacancy arises, the Governor shall immediately notify the board of commissioners of each county in the coastal area and the governing body of each incorporated city within the coastal area having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean. Within 30 days after receipt of such notification each such county board and city governing body shall nominate and transmit to the Governor the name and address of one person who is qualified in the category represented by the position to be filled, together with a brief summary of the qualifications of the nominee. The Governor shall make the appointment from among said city and county nominees. If any county board or city governing body fails to make a timely transmittal to its nominee, the Governor may add to the nominations a qualified person in lieu of said nominee.

(i) The chairman shall be designated by the Governor from among the members of the Commission to serve as chairman at the pleasure of the Governor. The vice-chairman shall be elected by and from the members of the Commission and shall serve for a term of two years or until the expiration of his regularly appointed term.

(j) Compensation: The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

“§ 113A-105. *Coastal Resources Advisory Council.*—(a) Creation: There is hereby created and established a council to be known as the Coastal Resources Advisory Council.

(b) The Coastal Resources Advisory Council shall consist of not more than 47 members appointed or designated as follows:

- (1) Three individuals designated by the Secretary of Natural and Economic Resources from among the employees of his department;
- (2) The Secretary of the Department of Administration or his designee;
- (3) The Secretary of the Department of Transportation and Highway Safety or his designee, and one additional member selected by him from his department;
- (4) The Secretary of the Department of Human Resources or his designee;
- (5) The Commissioner of Agriculture or his designee;
- (6) The Secretary of the Department of Cultural Resources or his designee;
- (7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;
- (8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;
- (9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission.
- (10) Three members selected by the Commission who are marine scientists or technologists;
- (11) One member who is a local health director selected by the Commission upon the recommendation of the State Health Director.

(c) Functions and Duties: The Advisory Council shall assist the Secretaries of Administration and of Natural and Economic Resources in an advisory capacity: (1) on matters which may be submitted to it by either of them or by the Commission, including technical questions relating to the development of rules and regulations, and (2) on such other matters arising under this Article as the Council considers appropriate.

(d) Multiple Offices: Membership on the Coastal Resources Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) Chairman and Vice-Chairman: A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation: The members of the Advisory Council who are not State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

“Part 2. Planning Processes.

“§ 113A-106. *Scope of planning processes.*—Planning processes covered by this Article include the development and adoption of State guidelines for the coastal area and the development and adoption of a land use plan for each county within the coastal area, which plans shall serve as criteria for the issuance or denial of development permits under Part 4.

“§ 113A-107. *State guidelines for the coastal area.*—(a) State guidelines for the coastal area shall consist of statements of objectives, policies, and standards to be followed in public and private use of land and water areas within the coastal area. Such guidelines shall be consistent with the goals of the coastal area management system as set forth in G.S. 113A-102. They shall give

particular attention to the nature of development which shall be appropriate within the various types of areas of environmental concern that may be designated by the Commission under Part 3. Such guidelines shall be adopted, and may be amended from time to time, in accordance with the procedures set forth in this section.

(b) The Commission shall be responsible for the preparation, adoption, and amendment of the State guidelines. In exercising this function it shall be furnished such staff assistance as it requires by the Secretary of Natural and Economic Resources and the Secretary of the Department of Administration, together with such incidental assistance as may be requested of any other State department or agency.

(c) Within 90 days after the effective date of this Article the Commission shall submit proposed State guidelines to all cities and counties and lead regional organizations within the coastal area for their comments and recommendations. In addition, it shall submit such guidelines to all State, private, federal, regional, and local agencies which it deems to have special expertise with respect to any environmental, social, economic, esthetic, cultural, or historical aspect of development in the coastal area. It shall make copies of the proposed guidelines available to the public through the Department of Administration.

(d) Cities, counties, and lead regional organizations and such other agencies or individuals as desire to do so shall have 60 days from receipt of such proposed guidelines within which to submit to the Commission their written comments and recommendations concerning the proposed guidelines.

(e) The Commission shall review and consider all such written comments and recommendations. Within 210 days after the effective date of this Article, the Commission shall by rule adopt State guidelines for the coastal area. Certified copies of such guidelines shall be filed with the Secretary of State and the Principal Clerks of the Senate and House, and the guidelines shall be mailed to each city, county, and lead regional organization in the coastal area and to such other agencies or individuals as the Commission deems appropriate. Copies shall be made available to the public through the Department of Administration.

(f) The Commission may from time to time amend the State guidelines as it deems necessary. In addition, it shall review such guidelines each five years after the effective date of this Article in accordance with the procedures for adoption of the original guidelines, to determine whether further amendments are desirable. Any proposed amendments shall be submitted to all cities, counties, members of the General Assembly and lead regional organizations in the coastal area, and may be distributed to such other agencies and individuals as the Commission deems appropriate. All comments and recommendations of such governments, agencies, and individuals shall be submitted to the Commission in writing within 30 days of receipt of the proposed amendments. The Commission shall review and consider these written comments and thereupon may by rule reject or adopt the proposed amendments or modify and adopt the amendments. Certified copies of all amendments shall be filed with the Secretary of State and the Principal Clerks of the Senate and House. Amendments shall thereupon be mailed to each city, county, members of the General Assembly and lead regional organization in the coastal area and to such other agencies and individuals as the Commission deems appropriate. Copies shall be made available to the public through the Department of Administration.

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“§ 113A-108. *Effect of State guidelines.*—All local land use plans adopted pursuant to this Article within the coastal area shall be consistent with the State guidelines. No permit shall be issued under Part 4 of this Article which is inconsistent with the State guidelines. Any State land policies governing the acquisition, use and disposition of land by State departments and agencies shall take account of and be consistent with the State guidelines adopted under this Article, insofar as lands within the coastal area are concerned. Any State land classification system which shall be promulgated shall take account of and be consistent with the State guidelines adopted under this Article, insofar as it applies to lands within the coastal area.

“§ 113A-109. *County letter of intent; timetable for preparation of land use plan.*—Within 120 days after the effective date of this Article, each county within the coastal area shall submit to the Commission a written statement of its intent to develop a land use plan under this Article or its intent not to develop such a plan. If any county states its intent not to develop a land use plan or fails to submit a statement of intent within the required period, the Commission shall prepare and adopt a land use plan for that county. If a county states its intent to develop a land use plan, it shall complete the preparation and adoption of such plan within 300 days after adoption of the State guidelines. In the event of failure by any county to complete its required plan within this time, the Commission shall promptly prepare and adopt such a plan.

In any case where the Commission has adopted a land use plan for a county that county may prepare its own land use plan in accordance with the procedures of this Article, and upon approval of such plan by the Commission it shall supersede the Commission's plan on a date specified by the Commission.

“§ 113A-110. *Land use plans.*—(a) A land use plan for a county shall, for the purpose of this Article, consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, which shall be supplemented by maps showing the appropriate location of particular types of land or water use and their relationships to each other and to public facilities and by specific criteria for particular types of land or water use in particular areas. The plan shall give special attention to the protection and appropriate development of areas of environmental concern designated under Part 3. The plan shall be consistent with the goals of the coastal area management system as set forth in G.S. 113A-102 and with the State guidelines adopted by the Commission under G.S. 113A-107. The plan shall be adopted, and may be amended from time to time, in accordance with the procedures set forth in this section.

(b) The body charged with preparation and adoption of a county's land use plan (whether the county government or the Commission) may delegate some or all of its responsibilities to the lead regional organization for the region of which the county is a part. Any such delegation shall become effective upon the acceptance thereof by the lead regional organization. Any county proposing a delegation to the lead regional organization shall give written notice thereof to the Commission at least two weeks prior to the date on which such action is to be taken. Any city or county within the coastal area may also seek the assistance or advice of its lead regional organization in carrying out any planning activity under this Article.

(c) The body charged with preparation and adoption of a county's land use plan (whether the county or the Commission or a unit delegated such

responsibility) may either (i) delegate to a city within the county responsibility for preparing those portions of the land use plan which affect land within the city's zoning jurisdiction or (ii) receive recommendations from the city concerning those portions of the land use plan which affect land within the city's zoning jurisdiction, prior to finally adopting the plan or any amendments thereto or (iii) delegate responsibility to some cities and receive recommendations from other cities in the county. The body shall give written notice to the Commission of its election among these alternatives. On written application from a city to the Commission, the Commission shall require the body to delegate plan-making authority to that city for land within the city's zoning jurisdiction if the Commission finds that the city is currently enforcing its zoning ordinance, its subdivision regulations, and the State Building Code within such jurisdiction.

(d) The body charged with adoption of a land use plan may either adopt it as a whole by a single resolution or adopt it in parts by successive resolutions; said parts may either correspond with major geographical sections or divisions of the county or with functional subdivisions of the subject matters of the plan. Amendments and extensions to the plan may be adopted in the same manner.

(e) Prior to adoption or subsequent amendment of any land use plan, the body charged with its preparation and adoption (whether the county or the Commission or a unit delegated such responsibility) shall hold a public hearing at which public and private parties shall have the opportunity to present comments and recommendations. Notice of the hearing shall be given not less than 30 days before the date of the hearing and shall state the date, time, and place of the hearing; the subject of the hearing; the action which is proposed; and that copies of the proposed plan or amendment are available for public inspection at a designated office in the county courthouse during designated hours. Any such notice shall be published at least once in a newspaper of general circulation in the county.

(f) No land use plan shall become finally effective until it has been approved by the Commission. The county or other unit adopting the plan shall transmit it, when adopted, to the Commission for review. The Commission shall afford interested persons an opportunity to present objections and comments regarding the plan, and shall review and consider each county land use plan in light of such objections and comments, the State guidelines, the requirements of this Article, and any generally applicable standards of review adopted by rule of the Commission. Within 45 days after receipt of a county land use plan the Commission shall either approve the plan or notify the county of the specific changes which must be made in order for it to be approved. Following such changes, the plan may be resubmitted in the same manner as the original plan.

(g) Copies of each county land use plan which has been approved, and as it may have been amended from time to time, shall be maintained in a form available for public inspection by (i) the county, (ii) the Commission, and (iii) the lead regional organization of the region which includes the county.

“§ 113A-111. *Effect of land use plan.*—No permit shall be issued under Part 4 of this Article for development which is inconsistent with the approved land use plan for the county in which it is proposed. No local ordinance or other local regulation shall be adopted which, within an area of environmental concern, is inconsistent with the land use plan of the county or city in which it is effective; any existing local ordinances and regulations within areas of environmental

concern shall be reviewed in light of the applicable local land use plan and modified as may be necessary to make them consistent therewith. All local ordinances and other local regulations affecting a county within the coastal area, but not affecting an area of environmental concern, shall be reviewed by the Commission for consistency with the applicable county and city land use plans and, if the Commission finds any such ordinance or regulation to be inconsistent with the applicable land use plan, it shall transmit recommendations for modification to the adopting local government.

“§ 113A-112. *Planning grants.*—The Secretary of Natural and Economic Resources is authorized to make annual grants to local governmental units for the purpose of assisting in the development of local plans and management programs under this Article. The Secretary shall develop and administer generally applicable criteria under which local governments may qualify for such assistance.

“Part 3. Areas of Environmental Concern.

“§ 113A-113. *Areas of environmental concern; in general.*—(a) The Coastal Resources Commission shall by rule designate geographic areas of the coastal area as areas of environmental concern and specify the boundaries thereof, in the manner provided in this Part.

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

- (1) Coastal wetlands as defined in G.S. 113-230(a);
- (2) Estuarine waters as defined in G.S. 113-229(n)(2), that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Conservation and Development filed with the Secretary of State, entitled ‘Boundary Lines, North Carolina Commercial Fishing-Inland Fishing Waters, Revised to March 1, 1965’;
- (3) Renewable resource areas where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could jeopardize future water, food or fiber requirements of more than local concern, which may include:
  - (i) Watersheds or aquifers that are present sources of public water supply, as identified by the North Carolina Board of Health or Board of Water and Air Resources, or that are classified for water supply use pursuant to G.S. 143-214.1;
  - (ii) Capacity use areas that have been declared by the Board of Water and Air Resources pursuant to G.S. 143-215.13(c) and areas wherein said Board (pursuant to G.S. 143-215.3(d) or G.S. 143-215.3(a)(8)) has determined that a generalized condition of water depletion or water or air pollution exists;
  - (iii) Prime forestry land (sites capable of producing 85 cubic feet per acre-year, or more, of marketable timber), as identified by the North Carolina Forest Service.
- (4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage

to important historic, cultural, scientific or scenic values or natural systems, which may include:

- (i) Existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas; existing sites that have been acquired for any of the same, as identified by the Secretary of Natural and Economic Resources; and proposed sites for any of the same, as identified by the Secretary of Natural and Economic Resources, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction;
  - (ii) Present sections of the natural and scenic rivers system;
  - (iii) Stream segments that have been classified for scientific or research uses by the Board of Water and Air Resources, or that are proposed to be so classified in a proceeding that is pending before said Board pursuant to G.S. 143-214.1 at the time of the designation of the area of environmental concern;
  - (iv) Existing wildlife refuges, preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition (as hereinafter defined) or for inclusion in a cooperative agreement by the governmental agency having jurisdiction;
  - (v) Complex natural areas surrounded by modified landscapes that do not drastically alter the landscape, such as virgin forest stands within a commercially managed forest, or bogs in an urban complex;
  - (vi) Areas that sustain remnant species or aberrations in the landscape produced by natural forces, such as rare and endangered botanical or animal species;
  - (vii) Areas containing unique geological formations, as identified by the State Geologist; and
  - (viii) Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to G.S. Chapter 121; and properties or areas that are or may be designated by the Secretary of the Interior as Registered Natural Landmarks or as National Historic Landmarks;
- (5) Areas such as waterways and lands under or flowed by tidal waters or navigable waters, to which the public may have rights of access or public trust rights, and areas which the State of North Carolina may be authorized to preserve, conserve, or protect under Article XIV, Section 5 of the North Carolina Constitution;
- (6) Natural hazard areas where uncontrolled or incompatible development could unreasonably endanger life or property, and other areas especially vulnerable to erosion, flooding, or other adverse effects of sand, wind and water, which may include:
- (i) Sand dunes along the Outer Banks;
  - (ii) Ocean and estuarine beaches and shoreline;
  - (iii) Floodways and flood plains;

- (iv) Areas where geologic and soil conditions are such that there is a substantial possibility of excessive erosion or seismic activity, as identified by the State Geologist;
  - (v) Areas with a significant potential for air inversions, as identified by the Board of Water and Air Resources.
- (7) Areas which are or may be impacted by key facilities.

(c) In those instances where subsection (b) of this section refers to locations identified by a specified agency, said agency is hereby authorized to make the indicated identification from time to time and is directed to transmit the identification to the Commission; provided, however, that no designation of an area of environmental concern based solely on an agency identification of a proposed location may remain effective for longer than three years unless, in the case of subparagraphs (4)(i) and (iv) of subsection (b) of this section, the proposed site has been at least 75% acquired. Within the meaning of this section, 'formal designation for acquisition' means designation in a formal resolution adopted by the governing body of the agency having jurisdiction (or by its chief executive, if it has no governing body), together with a direction in said resolution that the initial step in the land acquisition process be taken (as by filing an application with the Department of Administration to acquire property pursuant to G.S. 146-23).

(d) Additional grounds for designation of areas of environmental concern are prohibited unless enacted into law by an act of the General Assembly.

“§ 113A-114. *Designation of interim areas of environmental concern; notice of developments within such areas.*—(a) Pending the designation of areas of environmental concern pursuant to G.S. 113A-115, the Commission may by rule designate such interim areas of environmental concern (hereafter referred to as 'interim areas') as it deems appropriate.

(b) Not earlier than 15 days nor later than 75 days after the effective date of this Article the Secretary of Natural and Economic Resources, or his designee or designees, shall hold a one-day public hearing, at which public and private parties shall have the opportunity to present views and comments concerning proposed interim areas, in each of the following cities: Elizabeth City, Jacksonville, Manteo, Morehead City, Washington and Wilmington. The following provisions shall apply for all such hearings:

- (1) The hearing shall begin with a description of interim areas proposed by the Secretary.
- (2) Notice of any such hearing shall be given not less than seven days before the date of such hearing and shall state the date, time and place of the hearing, the subject of the hearing and the action to be taken. The notice shall state that a copy of a description of interim areas proposed by the Secretary (including a map of such proposed areas) is available for public inspection at the county courthouse of each county affected.
- (3) Any such notice shall be published one time in a newspaper of general circulation in the county or counties affected at least seven days before the date of the public hearing.
- (4) Any person who desires to be heard at such public hearing shall give notice thereof in writing to the Secretary on or before the date set for the hearing. The Secretary is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The Secretary shall permit anyone who so desires to file a written

argument or other statement with him in relation to proposed interim areas within five days following the conclusion of any public hearing or within such additional time as he may allow in his discretion.

- (5) A record of each such hearing shall be presented to the Commission by the Secretary, together with the description of interim areas proposed by the Secretary (with such revisions as he deems appropriate in light of the hearings). Upon receipt of said hearing records and description, and consideration of submitted evidence and arguments with respect to any proposed action pursuant to this section, the Commission shall adopt its final action with respect thereto and shall file a duly certified copy thereof with the Secretary of State and with the board of commissioners of each county affected thereby.

(c) The Commission may revise the interim areas (or any part thereof) at any time in the manner provided by subsection (b) of this section, except that the hearing or hearings shall be held in each county in which lands to be affected are located.

(d) The interim areas (with such revisions as may be made pursuant to this section) shall remain in effect until designation of areas of environmental concern are made pursuant to G.S. 113A-115.

(e) During the period while interim areas are in effect, any person proposing to undertake any development in an interim area shall notify the Commission at least 60 days in advance of initiating construction, installation or other land or water disturbing activity in connection with said development.

“§ 113A-115. *Designation of areas of environmental concern.*—(a) Prior to adopting any rule permanently designating any area of environmental concern the Secretary and the Commission shall hold a public hearing in each county in which lands to be affected are located, at which public and private parties shall have the opportunity to present comments and views. The following provisions shall apply for all such hearings:

- (1) Notice of any such hearing shall be given not less than 30 days before the date of such hearing and shall state the date, time and place of the hearing, the subject of the hearing, and the action to be taken. The notice shall specify that a copy of the description of the area or areas of environmental concern proposed by the Secretary is available for public inspection at the county courthouse of each county affected.
- (2) Any such notice shall be published at least once in one newspaper of general circulation in the county or counties affected at least 30 days before the date on which the public hearing is scheduled to begin.
- (3) Any person who desires to be heard at such public hearing shall give notice thereof in writing to the Secretary on or before the first date set for the hearing. The Secretary is authorized to set reasonable time limits for the oral presentation of views by any one person at any such hearing. The Secretary shall permit anyone who so desires to file a written argument or other statement with him in relation to any proposed plan any time within 30 days following the conclusion of any public hearing or within such additional time as he may allow by notice given as prescribed in this section.
- (4) Upon completion of the hearing and consideration of submitted evidence and arguments with respect to any proposed action pursuant to this section, the Commission shall adopt its final action with respect

thereto and shall file a duly certified copy thereof with the Secretary of State and with the board of commissioners of each county affected thereby.

(b) In addition to the notice required by G.S. 113A-115(a)(2) notice shall be given to any interested State agency and to any citizen or group that has filed a request to be notified of a public hearing to be held under this section.

(c) The Commission shall review the designated areas of environmental concern at least biennially. New areas may be designated and designated areas may be deleted, in accordance with the same procedures as apply to the original designations of areas under this section. Areas shall not be deleted unless it is found that the conditions upon which the original designation was based shall have been found to be substantially altered.

“Part 4. Permit Letting and Enforcement.

“§ 113A-116. *Local government letter of intent.*—Within one year after the effective date of this Article, each county and city within the coastal area shall submit to the Commission a written statement of its intent to act, or not to act, as a permit-letting agency under G.S. 113A-121. If any city or county states its intent not to act as a permit-letting agency or fails to submit a statement of intent within the required period, the Secretary of Natural and Economic Resources shall issue permits therein under G.S. 113A-121; provided that a county may submit a letter of intent to issue permits in any city within said county that disclaims its intent to issue permits or fails to submit a letter of intent. Provided, however, should any city or county fail to become a permit-letting agency for any reason, but shall later express its desire to do so, it shall be permitted by the Coastal Resources Commission to qualify as such an agency by following the procedure herein set forth for qualification in the first instance.

“§ 113A-117. *Implementation and enforcement programs.*—(a) The Secretary of Natural and Economic Resources shall develop and present to the Commission for consideration and to all cities and counties and lead regional organizations within the coastal area for comment a set of criteria for local implementation and enforcement programs. In the preparation of such criteria, the Secretary shall emphasize the necessity for the expeditious processing of permit applications. Said criteria may contain recommendations and guidelines as to the procedures to be followed in developing local implementation and enforcement programs, the scope and coverage of said programs, minimum standards to be prescribed in said programs, staffing of permit-letting agencies, permit-letting procedures, and priorities of regional or statewide concern. Within 14 months after the effective date of this Article, the Commission shall adopt and transmit said criteria (with any revisions) to each coastal area county and city that has filed an applicable letter of intent, for its guidance.

(b) The governing body of each city in the coastal area that filed an affirmative letter of intent shall adopt an implementation and enforcement plan with respect to its zoning area within 20 months after the effective date of this Article. The board of commissioners of each coastal area county that filed an affirmative letter of intent shall adopt an implementation plan with respect to portions of the county outside city zoning areas within 20 months after the effective date of this Article, provided, however, that a county implementation and enforcement plan may also cover city jurisdictions for those cities within the counties that have not filed affirmative letters of intent pursuant to G.S. 113A-116. Prior to adopting the implementation and enforcement program the

local governing body shall hold a public hearing at which public and private parties shall have the opportunity to present comments and views. Notice of the hearing shall be given not less than 15 days before the date of the hearing, and shall state the date, time and place of the hearing, the subject of the hearing, and the action which is to be taken. The notice shall state that copies of the proposed implementation and enforcement program are available for public inspection at the county courthouse. Any such notice shall be published at least once in one newspaper of general circulation in the county at least 15 days before the date on which the public hearing is scheduled to begin.

(c) Each coastal area county and city shall transmit its implementation and enforcement program when adopted to the Commission for review. The Commission shall afford interested persons an opportunity to present objections and comments regarding the program, and shall review and consider each local implementation and enforcement program submitted in light of such objections and comments, the Commission's criteria and any general standards of review applicable throughout the coastal area as may be adopted by the Commission. Within 45 days after receipt of a local implementation and enforcement program the Commission shall either approve the program or notify the county or city of the specific changes that must be made in order for it to be approved. Following such changes, the program may be resubmitted in the same manner as the original program.

(d) If the Commission determines that any local government is failing to administer or enforce an approved implementation and enforcement program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 90 days of receipt of notification from the Commission, the Commission shall assume enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

“§ 113A-118. *Permit required.*—(a) After the date designated by the Secretary of Natural and Economic Resources pursuant to G.S. 113A-125, every person before undertaking any development in any area of environmental concern shall obtain (in addition to any other required State or local permit) a permit pursuant to the provisions of this Part.

(b) Under the expedited procedure provided for by G.S. 113A-121, the permit shall be obtained from the appropriate city or county for any minor development; provided, that if the city or county has not developed an approved implementation and enforcement program, the permit shall be obtained from the Secretary of Natural and Economic Resources.

(c) Under the quasi-judicial procedure provided for by G.S. 113A-122, the permit shall be obtained from the Commission.

(d) Within the meaning of this Part:

- (1) A 'major development' is any development which requires permission, licensing, approval, certification or authorization in any form from the Board of Water and Air Resources, the State Board of Health, the State Departments of Natural and Economic Resources or Conservation and Development, the State Department of Administration, the North Carolina Mining Council, the North Carolina Pesticides Board, or the North Carolina Sedimentation Control Board; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or

excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

(2) A 'minor development' is any development other than a 'major development'.

(e) If, within the meaning of G.S. 113A-103(5)(b)(iii), the siting of any utility facility for the development, generation or transmission of energy is subject to regulation under this Article rather than by the State Utilities Commission or by other law, permits for such facilities shall be obtained from the Coastal Resources Commission rather than from the appropriate city or county.

"§ 113A-119. *Permit applications generally.*—(a) Any person required to obtain a permit under this Part shall file with the Secretary of Natural and Economic Resources and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application a check or money order payable to the Department or the city or county, as the case may be, constituting a reasonable fee (not to exceed twenty-five dollars (\$25.00)) set by the Commission to cover the administrative costs in processing the said application.

(b) Upon receipt of an application, the Secretary shall issue public notice of the proposed development (1) by mailing a copy of the application, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (2) by posting or causing to be posted a copy of the application at the location of the proposed development; and (3) by publishing notice of the application at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least seven days before final action on a permit under G.S. 113A-121 or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not to exceed 15 days from the date of the newspaper publication of the notice. Public notice under this subsection is mandatory.

(c) Within the meaning of this Part, the 'designated local official' is the official who has been designated by the local governing body to receive and consider permit applications under this Part.

"§ 113A-120. *Grant or denial of permits.*—(a) After consideration of submitted evidence and arguments submitted at the hearing, or otherwise in the case where no hearing was conducted, the responsible official or body shall deny the application for permit upon finding:

- (i) In the case of coastal wetlands, that the development would contravene an order that has been or could be issued pursuant to G.S. 113-230.
- (ii) In the case of estuarine waters, that a permit for the development would be denied pursuant to G.S. 113-229(e).
- (iii) In the case of a renewable resource area, that the development will result in loss or significant reduction of continued long-range productivity that would jeopardize one or more of the water, food or

fiber requirements of more than local concern identified in subparagraphs (i) - (iii) of paragraph (b)(3) of G.S. 113A-113.

- (iv) In the case of a fragile or historic area, or other area containing environmental or natural resources of more than local significance, that the development will result in major or irreversible damage to one or more of the historic, cultural, scientific, environmental or scenic values or natural systems identified in subparagraphs (i) - (viii) of paragraph (b)(4) of G.S. 113A-113.
- (v) In the case of areas covered by G.S. 113A-113(4), that the development will jeopardize the public rights or interests specified in said subdivision.
- (vi) In the case of natural hazard areas, that the development would occur in one or more of the areas identified in subparagraphs (i) - (v) of paragraph (b)(6) in such a manner as to unreasonably endanger life or property.
- (vii) In the case of areas which are or may be impacted by key facilities, that the development is inconsistent with the State guidelines or the local land use plans, or would contravene any of the provisions of paragraphs (i) through (vi) of this subsection.
- (viii) In any case, that the development is inconsistent with the State guidelines or the local land use plans.

(b) In the absence of such findings, a permit shall be granted. The permit may be conditioned upon the applicant's amending his proposal to take whatever measures are reasonably necessary to protect the public interest with respect to the factors enumerated in subsection (a) of this section.

(c) Variances. Any person may petition the Commission for a variance granting permission to use his land in a manner otherwise prohibited by rules, regulations, standards or limitations prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. When it finds that (a) practical difficulties or unnecessary hardships would result from strict application of the guidelines, rules, regulations, standards, or other restrictions applicable to the property, (b) such difficulties or hardships result from conditions which are peculiar to the property involved, (c) such conditions could not reasonably have been anticipated when the applicable guidelines, rules, regulations, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that the spirit, purpose, and intent of the restrictions are preserved, public safety and welfare secured, and substantial justice preserved. In varying such regulations, the Commission may impose reasonable and appropriate conditions and safeguards upon any permit it issues. The Commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

“§ 113A-121. *Permits for minor developments under expedited procedures.*—

(a) Applications for permits for minor developments shall be expeditiously processed so as to enable their promptest feasible disposition.

(b) In cities and counties that have developed approved implementation and enforcement programs, applications for permits for minor developments shall be considered and determined by the designated local official of the city or county as the case may be. In cities and counties that have not developed approved implementation and enforcement programs, such applications shall be

considered and determined by the Secretary of Natural and Economic Resources.

(c) Failure of the Secretary or the designated local official (as the case may be) to approve or deny an application for a permit for a minor development within 30 days from receipt of application shall be treated as approval of such application, except that the Secretary or the designated local official (as the case may be) may extend such deadline by not more than an additional 30 days if necessary properly to consider the application. No waiver of the foregoing time limitation (or of the time limitation established in G.S. 113A-122(c)) shall be required of any applicant.

(d) Any person who is directly affected by the decision of the Secretary or the designated local official (as the case may be) to grant or deny an application for minor development permit, may request within 20 days of such action, a hearing before the Commission. In the case of a grant or denial of a permit by a local official, the Secretary shall be considered to be a person affected by the decision. Pending final disposition of any such appeal, no action shall be taken which would be unlawful in the absence of a permit issued under this section.

“§ 113A-122. *Permits under quasi-judicial procedures.*—(a) The procedure set forth in this section applies to all permit applications for major developments, as well as to permit applications for minor developments whose disposition was appealed under G.S. 113A-121(d). All permit applications subject to this section shall be heard by the Commission.

(b) The following provisions shall be applicable in connection with hearings pursuant to this section:

- (i) Any hearing held pursuant to this section shall be held upon not less than 30 days' written notice given by the Commission to any person who is a party to the proceedings with respect to which such hearing is to be held, unless a shorter notice is agreed upon by all such parties.
- (ii) All hearings under this section shall be open to the public. Any person to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission for decision.
- (iii) A full and complete record of all proceedings at any hearing under this section shall be taken by a reporter appointed by the Commission or by other method approved by the Attorney General. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Commission.
- (iv) The Commission and its duly authorized agents shall follow generally the procedures applicable in civil actions in the superior court insofar as practicable, including rules and procedures with regard to the taking and use of depositions, the making and use of stipulations, and the entering into of agreed settlements and consent orders.
- (v) The Commission and its duly authorized agents may administer oaths and may issue subpoenas for the attendance of witnesses and the production of books, papers, and other documents belonging to the said person.
- (vi) Subpoenas issued by the Commission in connection with any hearing under this section shall be directed to any officer authorized by law to serve process, and the further procedures and rules of law applicable with respect thereto shall be prescribed in connection with subpoenas to the same extent as if issued by a court of record. In case of a refusal to obey a

subpoena issued by the Commission, application may be made to the superior court of the appropriate county for enforcement thereof.

- (vii) The burden of proof at any hearing under this section on appeal pursuant to G. S. 113A-121(d) shall be upon the Secretary. The burden of proof at any hearing under this section on a permit application for a major development shall be upon the applicant. The provisions of this paragraph shall apply only to the hearings specified in this paragraph.
- (viii) No decision or order of the Commission shall be made in any proceeding unless the same is supported by competent, material, and substantial evidence upon consideration of the whole record.
- (ix) Following any hearing, the Commission shall afford the parties thereto an opportunity to submit within 30 days, or within such additional time as prescribed by the Commission, proposed findings of fact and conclusions of law and any brief in connection therewith.
- (x) After hearing the evidence, the Commission shall grant or deny the permit in accordance with the provisions of G.S. 113A-120. All such orders and decisions of the Commission shall set forth separately the Commission's findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate provision of law or other source of authority on which any action or decision of the Commission is based.
- (xi) The Commission shall have the authority to adopt a seal which shall be the seal of said Commission and which shall be judicially noticed by the courts of the State. Any document, proceeding, order, decree, special order, rule, regulation, rule of procedure or any other official act or records of the Commission or its minutes may be certified by the Executive Director under his hand and the seal of the Commission and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action to proceedings. The Commission shall have the right to take judicial notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Commission or by any other person or interested party where material, relevant and competent.

(c) Failure of the Commission to approve or deny an application for a permit (or to dispose of an appeal) pursuant to this section within 90 days from receipt of application or notice of appeal shall be treated as approval of such application or of the action appealed from, as the case may be, except that the Commission may extend such deadline by not more than an additional 90 days if necessary properly to consider the application or the appeal.

(d) All notices which are required to be given by the Secretary or Commission or by any party to a proceeding under this section shall be given by registered or certified mail to all persons entitled thereto. The date of receipt or refusal for such registered or certified mail shall be the date when such notice is deemed to have been given. Notice by the Commission may be given to any person upon whom a summons may be served in accordance with the provisions of law covering civil actions in the superior courts of this State. The Commission may prescribe the form and content of any particular notice.

“§ 113A-123. *Judicial review.*—(a) Any person directly affected by any final decision or order of the Commission under this Part may appeal such decision or order to the superior court of the county where the land or any part thereof is located, pursuant to the provisions of Article 33 of Chapter 143 of the General Statutes. Pending final disposition of any appeal, no action shall be taken which would be unlawful in the absence of a permit issued under this Part.

(b) Any person having a recorded interest or interest by operation of law in or registered claim to land within an area of environmental concern affected by any final decision or order of the Commission under this Part may, within 90 days after receiving notice thereof, petition the superior court to determine whether the petitioner is the owner of the land in question, or an interest, therein, and in case he is adjudged the owner of the subject land, or an interest therein, the court shall determine whether such order so restricts the use of his property as to deprive him of the practical uses thereof, being not otherwise authorized by law, and is therefore an unreasonable exercise of the police power because the order constitutes the equivalent of taking without compensation. The burden of proof shall be on petitioner as to ownership and the burden of proof shall be on the Commission to prove that the order is not an unreasonable exercise of the police power, as aforesaid. Either party shall be entitled to a jury trial on all issues of fact, and the court shall enter a judgment in accordance with the issues, as to whether the Commission order shall apply to the land of the petitioner. The Secretary of Natural and Economic Resources shall cause a copy of such finding to be recorded forthwith in the register of deeds office in the county where the land is located. The method provided in this subsection for the determination of the issue of whether such order constitutes a taking without compensation shall be exclusive and such issue shall not be determined in any other proceeding. Any action authorized by this subsection shall be calendared for trial at the next civil session of superior court after the summons and complaint have been served for 30 days, regardless of whether issues were joined more than 10 days before the session. It is the duty of the presiding judge to expedite the trial of these actions and to give them a preemptory setting over all others, civil or criminal. From any decision of the superior court either party may appeal to the court of appeals as a matter of right.

(c) After a finding has been entered that such order shall not apply to certain land as provided in the preceding subsection, the Department of Administration, upon the request of the Commission and upon finding that sufficient funds are available therefor, and with the consent of the Governor and Council of State may take the fee or any lesser interest in such land in the name of the State by eminent domain under the provisions of Chapter 146 of the General Statutes and hold the same for the purposes set forth in this Article.

“§ 113A-124. *Additional powers and duties.*—(a) The Secretary of Natural and Economic Resources shall have the following additional powers and duties under this Article:

- (1) To conduct or cause to be conducted, investigations of proposed developments in areas of environmental concern in order to obtain sufficient evidence to enable a balanced judgment to be rendered concerning the issuance of permits to build such developments.
- (2) To cooperate with the Secretary of the Department of Administration in drafting State guidelines for the coastal area.
- (3) To keep a list of interested persons who wish to be notified of proposed

developments and proposed rules designating areas of environmental concern and to so notify these persons of such proposed developments by regular mail. A reasonable registration fee to defray the cost of handling and mailing notices may be charged to any person who so registers with the Commission.

- (4) To propose rules and regulations to implement this Article for consideration by the Commission.
- (5) To delegate such of his powers as he may deem appropriate to one or more qualified employees of the Department of Natural and Economic Resources or to any local government, provided that the provisions of any such delegation of power shall be set forth in departmental regulations.
- (6) To delegate the power to conduct a hearing, on his behalf, to any member of the Commission or to any qualified employee of the Department of Natural and Economic Resources. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Secretary for decision or action.

(b) In order to carry out the provisions of this Article the Secretaries of Administration and of Natural and Economic Resources may employ such clerical, technical and professional personnel, and consultants with such qualifications as the Commission may prescribe, in accordance with the State Personnel Regulations and Budgetary Laws, and are hereby authorized to pay such personnel from any funds made available to them through grants, appropriations, or any other sources. In addition, the said Secretaries may contract with any local governmental unit or lead regional organization to carry out the planning provisions of this Article.

(c) The Commission shall have the following additional powers and duties under this Article:

- (1) To recommend to the Secretary of Natural and Economic Resources the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.
- (2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.
- (3) To hold such public hearings as the Commission deems appropriate.
- (4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department of Natural and Economic Resources. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.
- (5) To adopt from time to time and to modify and revoke official regulations interpreting and applying the provisions of this Article and rules of procedure establishing and amplifying the procedures to be followed in the administration of this Article.

(d) The Attorney General shall act as attorney for the Commission and shall initiate actions in the name of, and at the request of, the Commission, and shall

represent the Commission in the hearing of any appeal from or other review of any order of the Commission.

“§ 113A-125. *Transitional provisions.*—(a) Existing regulatory permits shall continue to be administered within the coastal area by the agencies presently responsible for their administration until a date (not later than 27 months after the effective date of this Article), to be designated by the Secretary of Natural and Economic Resources as the permit changeover date. Said designation shall be effective from and after its filing with the Secretary of State.

(b) From and after the ‘permit changeover date’, all existing regulatory permits within the coastal area shall be administered in coordination and consultation with (but not subject to the veto of) the Commission. No such existing permit within the coastal area shall be issued, modified, renewed or terminated except after consultation with the Commission. The provisions of this paragraph concerning consultation and coordination shall not be interpreted to authorize or require the extension of any deadline established by this Article or any other law for completion of any permit, licensing, certification or other regulatory proceedings.

(c) Within the meaning of this section, ‘existing regulatory permits’ include dredge and fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4; air pollution control and water pollution control permits, special orders or certificates issued pursuant to G.S. 143-215.1 and G.S. 143-215.2, or any other permits, licenses, authorizations, approvals or certificates issued by the Board of Water and Air Resources pursuant to G.S. Chapter 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51; permissions for construction of wells issued pursuant to G.S. 87-88; restricted use pesticide permits issued pursuant to G.S. 143-440(b), pesticide applicator licenses issued pursuant to G.S. 143-452 for persons who may apply pesticides within the coastal area, and regulations concerning pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the State Board of Health of plans for water supply, drainage or sewerage, pursuant to G.S. 130-161.1 and G.S. 130-161.2; standards and approvals for solid waste disposal sites and facilities, adopted by the State Board of Health pursuant to G.S. Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued pursuant to G.S. Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and regulations issued by the State Board of Health pursuant to Articles 23 or 24 of G.S. Chapter 130 with reference to mosquito control programs or districts; any permits, licenses, authorizations, regulations, approvals or certificates issued by the State Board of Health relating to septic tanks or water wells; oil or gas well regulations and orders issued for the protection of environmental values or resources pursuant to G.S. 113-391; a certificate of public convenience and necessity issued by the State Utilities Commission pursuant to G.S. Chapter 62 for any public utility plant or system, other than a carrier of persons or property; permits, licenses, leases, options, authorization or approvals relating to the use of State forest lands, State parks or other State-owned land issued by the State Department of Administration, the State Department of Natural and Economic Resources or any other State

department, agency or institution; any approvals of erosion control plans that may be issued by the North Carolina Sedimentation Control Commission pursuant to G.S. 113A-60 or G.S. 113A-61; and any permits, licenses, authorizations, regulations, approvals or certificates issued by any State agency pursuant to any environmental protection legislation not specified in this subsection that may be enacted prior to the permit changeover date.

(d) The Commission shall conduct continuing studies addressed to developing a better coordinated and more unified system of environmental and land use permits in the coastal area, and shall report its recommendations thereon from time to time to the General Assembly. Specifically, the Commission shall report to the 1975 General Assembly recommended procedures to implement the requirement of subsection (b) of this section for administration of existing regulatory permits within the coastal area in coordination and consultation with the Commission. In its 1975 recommendations, the Commission shall seek to develop procedures that are administratively practicable, that are not unduly burdensome for the affected agencies, and that are adapted to the circumstances of each agency, taking into account the volume of permits issued, the location of the regulated activity (whether or not within or near an area of environmental concern), the significance of the environmental consequences of the regulated activity, and the scheduling problems and needs of the regulatory agency: provided, however, that no consultation or coordination shall be required in advance of issuance of individual pesticide applicator licenses, but only periodic consultation concerning the overall effect of the applicator licensing program within the coastal area. In its 1975 recommendations, the Commission shall also evaluate the desirability of legislation to provide for coordination of environmental permits at the option of permit applicants. In developing its 1975 recommendations, the Commission shall meet with all affected State agencies and shall hold one or more public hearings concerning its recommendations.

“§ 113A-126. *Injunctive relief and penalties.*—(a) Upon violation of any of the provisions of this Article or of any regulation, rule or order adopted under the authority of this Article the Secretary may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the State upon the relation of the Secretary for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(b) Upon violation of any of the provisions of this Article relating to permits for minor developments issued by a local government, or of any regulation, rule or order adopted under the authority of this Article relating to such permits, the designated local official may, either before or after the institution of proceedings for the collection of any penalty imposed by this Article for such violation, institute a civil action in the General Court of Justice in the name of the affected local government upon the relation of the designated local official for injunctive relief to restrain the violation and for such other and further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by this Article for any violation of same.

(c) Any person who shall be adjudged to have knowingly or willfully violated any provision of this Article, or any regulation, rule or order adopted pursuant to this Article, shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates, any such provision, regulation, rule or order after written notice from the Secretary or (in the case of a permit for a minor development issued by a local government) written notice from the designated local official, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties.

(d) (1) A civil penalty of not more than one thousand dollars (\$1,000) may be assessed by the Commission against any person who:

- (i) Is required but fails to apply for or to secure a permit required by G.S. 113A-122, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
  - (ii) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by the Commission pursuant to this Article.
  - (iii) Refuses access to the Commission or its duly designated representative, who has sufficiently identified himself by displaying official credentials, to any premises, not including any occupied dwelling house or curtilage, for the purpose of conducting any investigations provided for in this Article.
  - (iv) Violates any duly adopted regulation of the Commission implementing the provisions of this Article. Provided, however, that this paragraph (iv) shall not apply to regulations relating to minor developments.
- (2) If any action or failure to act for which a penalty may be assessed under this subsection is willful, the Commission may assess a penalty not to exceed one thousand dollars (\$1,000) for each separate violation, after the first assessment, provided, however, no penalty shall be imposed under this subsection pending court review of the first assessment, if appealed pursuant to subsection (3).
- (3) The Commission may assess the penalties provided for in this subsection. When the Commission proposes to assess a penalty, it shall notify the person whom it proposes to assess by registered or certified mail of the proposal to assess a penalty, and the notice shall specify the reason for assessment and the date of the proposed hearing when assessment is to be determined. The hearing shall be no sooner than 15 days after the mailing of notice of the proposed assessment. Any hearing shall be based upon competent evidence, and the person the Commission proposes to assess shall be allowed to present evidence, and the hearing shall be reported. The person assessed may apply to the superior court of the county where such person resides for review of the hearing and assessment and the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315. If the person assessed fails to pay the amount of the assessment to the Department of Natural and Economic Resources within 30 days after receipt of notice, or such

longer period, not to exceed 180 days, as the Commission may specify, the Commission may institute a civil action in the superior court of the county in which the violation occurred or, in the discretion of the Commission in the superior court of the county in which the person assessed resides or has his or its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the Commission's action (which shall include a review of the amount of the assessment), shall be as provided in G.S. 143-315.

- (4) In determining the amount of the penalty the Commission shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage.

“§ 113A-127. *Coordination with the federal government.*—All State agencies shall keep informed of federal and interstate agency plans, activities, and procedures within their area of expertise that affect the coastal area. Where federal or interstate agency plans, activities or procedures conflict with State policies, all reasonable steps shall be taken by the State to preserve the integrity of its policies.

“§ 113A-128. *Protection of landowners' rights.*—Nothing in this Article authorizes any governmental agency to adopt a rule or regulation or issue any order that constitutes a taking of property in violation of the Constitution of this State or of the United States.

“§ 113A-129. *Severability.*—If any provision of this Article or its application to any person or circumstance is held invalid, the remainder of the Article, or the application of the provisions to other persons or circumstances, is not affected.

**Sec. 2.** G.S. 146-22.1 is hereby amended by adding thereto at the end thereof the following additional subdivision (13):

“(13) Lands necessary for acquisition of all or part of an area of environmental concern, as requested pursuant to G.S. 113A-123.”

**Sec. 3.** This act shall become effective July 1, 1974, except that the provisions of this act relating to the selection of the initial Commission shall become effective upon ratification, and the entire act shall expire on June 30, 1981.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**S. B. 1474                      CHAPTER 1285**

**AN ACT TO FILL A VACANCY ON THE PERSON COUNTY BOARD OF EDUCATION AND TO AMEND CHAPTER 850 OF THE 1963 SESSION LAWS TO PROVIDE FOR THE FILLING OF VACANCIES AND TIME FOR TAKING OFFICE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The vacancy created on the Person County Board of Education by the death of Mr. Carl Forsyth shall be filled by Mrs. Hilda Satterfield who shall serve until the first Monday in December 1974 or until her successors are elected and qualified.

**Sec. 2.** Section 6 of Chapter 850 of the 1963 Session Laws is hereby rewritten as follows:

“Any vacancy occurring in the Person County Board of Education by death, resignation or otherwise shall be filled by appointment by the remaining members of the board, such person to serve until the time of the next regularly scheduled general election for members of the board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.”

**Sec. 3.** Section 7 of Chapter 850 of the 1963 Session Laws is hereby rewritten as follows:

“Persons elected to the Person County Board of Education at the time of the next regularly scheduled general election in 1974 and biennially thereafter, shall hold office for a term of four years and until their successors are elected and qualified. Terms shall commence on the first Monday in December following the November election.”

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 256

**CHAPTER 1286**

**AN ACT TO AMEND THE LAWS RELATING TO PRETRIAL CRIMINAL PROCEDURE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Statutes are hereby amended by inserting therein immediately following Chapter 15 of the General Statutes a new Chapter 15A entitled “Criminal Procedure Act” to read as follows:

“Chapter 15A.

“CRIMINAL PROCEDURE ACT.

“Subchapter 1.

“General.

“Article 1.

“Definitions and General Provisions.

“§ 15A-101. *Definitions.*—Unless the context clearly requires otherwise, the following words have the listed meanings:

(1) Attorney of record.—An attorney who, under Article 4 of this Chapter, Entry and Withdrawal of Attorney in Criminal Case, has entered a criminal proceeding and has not withdrawn.

(2) Clerk.—Any person authorized to perform the functions of the clerk of superior court in a county.

(3) District court.—The District Court Division of the General Court of Justice.

(4) District solicitor.—The person elected and currently serving as solicitor in his solicitorial district.

(5) Judicial official.—A magistrate, clerk, judge, or justice of the General Court of Justice.

(6) Officer.—Law enforcement officer.

(7) Solicitor.—The district solicitor, any assistant solicitor, or any other attorney designated by the district solicitor to act for the State or on behalf of the district solicitor.

(8) State.—The State of North Carolina, all land or water in respect to which the State of North Carolina has either exclusive or concurrent jurisdiction, and

the air space above that land or water. 'Other state' means any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(9) Superior court.—The Superior Court Division of the General Court of Justice.

(10) Superior court judge.—Any judge assigned to preside over a session of superior court in the judicial district, any resident superior court judge of the judicial district, or any special judge of superior court residing in the judicial district.

(11) Vehicle.—Aircraft, watercraft, or landcraft or other conveyance.

“Article 2.

“Jurisdiction.

(Reserved for future codification)

“Article 3.

“Venue.

“§ 15A-131. *Venue generally.*—(a) Venue for pretrial and trial proceedings in district court of cases within the original jurisdiction of the district court lies in the county where the charged offense occurred.

(b) Except for the probable cause hearing, venue for pretrial proceedings in cases within the original jurisdiction of the superior court lies in the judicial district embracing the county where venue for trial proceedings lies.

(c) Venue for probable cause hearings and trial proceedings in cases within the original jurisdiction of the superior court lies in the county where the charged offense occurred.

(d) Venue for misdemeanors appealed for trial de novo in superior court lies in the county where the misdemeanor was first tried.

(e) An offense occurs in a county if any act or omission constituting part of the offense occurs within the territorial limits of the county.

(f) For the purposes of this Article, pretrial proceedings include all proceedings prior to arraignment.

“§ 15A-132. *Concurrent venue.*—(a) If acts or omissions constituting part of the commission of the charged offense occurred in more than one county, each county has concurrent venue.

(b) If charged offenses which may be joined in a single criminal pleading under G.S. 15A-926 occurred in more than one county, each county has concurrent venue as to all charged offenses.

(c) When counties have concurrent venue, the first county in which a criminal process is issued in the case becomes the county with exclusive venue.

“§ 15A-133. *Waiver of venue; motion for change of venue; indictment may be returned in other county.*—(a) Except for a waiver of venue made as required in Article 35 of this Chapter, Speedy Trial, a waiver of venue must be in writing and signed by the defendant and the solicitor indicating the consent of all parties to the waiver. The waiver must specify what stages of the proceedings are affected by the waiver, and the county to which venue is changed. If the venue is to be laid in a county in another judicial district, the consent in writing of the solicitor in that district must be filed with the clerks of both counties.

(b) If a waiver of venue is made by the defendant as provided in Article 35 of this Chapter, Speedy Trial, the solicitor in his discretion may elect the county in the district in which to proceed. He may also elect not to proceed in another county, but the State is subject to the sanctions provided in Article 35.

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(c) Motions for change of venue by the defendant are made under G.S. 15A-957. If venue is laid in a county in another judicial district by order of the judge ruling on the motion, no consent of any solicitor is required.

(d) If venue is changed to a county in another judicial district, whether upon waiver of venue or by order of a judge, the solicitor of the district where the case originated must prosecute the case unless the solicitor of the district to which venue has been changed consents to conduct the prosecution.

(e) If venue is changed, whether upon waiver of venue or by order of a judge, the grand jury in the county to which venue has been transferred has the power to return an indictment in the case. If an indictment has already been returned before the change of venue, no new indictment is necessary and prosecution may be had in the new county under the original indictment.

“§ 15A-134. *Offense occurring in part outside North Carolina.*—If a charged offense occurred in part in North Carolina and in part outside North Carolina, a person charged with that offense may be tried in this State if he has not been placed in jeopardy for the identical offense in another state.

“§ 15A-135. *Allegation of venue conclusive in absence of timely motion.*—Allegations of venue in any criminal pleading become conclusive in the absence of a timely motion to dismiss for improper venue under G.S. 15A-952. A defendant may move to dismiss for improper venue upon trial de novo in superior court, provided he did not in the district court with benefit of counsel stipulate venue or expressly waive his right to contest venue.

### “Article 4.

#### “Entry and Withdrawal of Attorney in Criminal Case.

“§ 15A-141. *Entry and withdrawal of attorney; when entry in criminal proceeding occurs.*—An attorney enters a criminal proceeding when he:

(1) Files a written notice of entry with the clerk indicating an intent to represent a defendant in a specified criminal proceeding; or

(2) Appears in a criminal proceeding without limiting the extent of his representation; or

(3) Appears in a criminal proceeding for a limited purpose and indicates the extent of his representation by filing written notice thereof with the clerk, or entering oral notice thereof in open court at the time of his initial appearance.

(4) Accepts assignment to represent an indigent defendant under the terms of Article 36 of Chapter 7A of the General Statutes; or

(5) Files a written waiver of arraignment, except that representation in this instance may not be limited pursuant to subdivision (3).

“§ 15A-142. *Requirement that clerk record entry.*—The clerk must note each entry by an attorney in the records of the proceeding.

“§ 15A-143. *Attorney making general entry obligated to represent defendant at all subsequent stages.*—An attorney who enters a criminal proceeding without limiting the extent of his representation pursuant to G.S. 15A-141(3) undertakes to represent the defendant for whom the entry is made at all stages of the case in that division of the court - District, Superior or Appellate. An attorney who appears for a limited purpose under the provisions of G.S. 15A-141(3) undertakes to represent the defendant only for that purpose and is deemed to have withdrawn from the proceedings, without the need for permission of the court, when that purpose is fulfilled.

“§ 15A-144. *Entry and withdrawal of attorney, withdrawal with permission of court.*—The court may allow an attorney to withdraw from a criminal proceeding upon a showing of good cause.

“Articles 5 and 6.

(Reserved for future codification)

“Subchapter 2.

“Law Enforcement and Investigative Procedures.

“Article 7.

(Reserved for future codification)

“Article 8.

(Reserved for future codification)

“Article 9.

“Search and Seizure by Consent.

“§ 15A-221. *General authorization.*—(a) Authority to Search and Seize Pursuant to Consent. Subject to the limitations in the other provisions of this Article, a law enforcement officer may conduct a search and make seizures, without a search warrant or other authorization, if consent to the search is given.

(b) Definition of ‘Consent’. As used in this Article, ‘consent’ means a statement to the officer, made voluntarily and in accordance with the requirements of G.S. 15A-222, giving the officer permission to make a search.

“§ 15A-222. *Requirements of effective consent.*—Person From Whom Effective Consent May Be Obtained. The consent needed to justify a search and seizure under G.S. 15A-221 must be given:

(1) by the person to be searched;

(2) by the registered owner of a vehicle to be searched or by the person in apparent control of its operation and contents at the time the consent is given;

(3) by a person who by ownership or otherwise is reasonably apparently entitled to give or withhold consent to a search of premises.

“§ 15A-223. *Permissible scope of consent search and seizure.*—(a) Search Limited by Scope of Consent. A search conducted pursuant to the provisions of this Article may not exceed, in duration or physical scope, the limits of the consent given.

(b) Items Seizable as Result of Consent Search. The things subject to seizure in the course of a search pursuant to this Article are the same as those specified in G.S. 15A-242. Upon completion of the search, the officer must make a list of the things seized, and must deliver a receipt embodying the list to the person who consented to the search and, if known, to the owner of the vehicle or premises searched.

“Article 10.

“Other Searches and Seizures.

“§ 15A-231. *Other searches and seizures.*—Constitutionally permissible searches and seizures which are not regulated by the General Statutes of North Carolina are not prohibited.

“Article 11.

“Search Warrants.

“§ 15A-241. *Definition of search warrant.*—A search warrant is a court order and process directing a law enforcement officer to search designated premises,

vehicles, or persons for the purpose of seizing designated items and accounting for any items so obtained to the court which issued the warrant.

“§ 15A-242. *Items subject to seizure under a search warrant.*—An item is subject to seizure pursuant to a search warrant if there is probable cause to believe that it:

- (1) Is stolen or embezzled; or
- (2) Is contraband or otherwise unlawfully possessed; or
- (3) Has been used or is possessed for the purpose of being used to commit or conceal the commission of a crime; or
- (4) Constitutes evidence of an offense or the identity of a person participating in an offense.

“§ 15A-243. *Who may issue a search warrant.*—(a) A search warrant valid throughout the State may be issued by:

- (1) A Justice of the Supreme Court.
- (2) A judge of the Court of Appeals.
- (3) A judge of the superior court.

(b) Other search warrants may be issued by:

- (1) A judge of the district court as provided in G.S. 7A-291.
- (2) A clerk as provided in G.S. 7A-180 and 7A-181.
- (3) A magistrate as provided in G.S. 7A-273.

“§ 15A-244. *Contents of the application for a search warrant.*—Each application for a search warrant must be made in writing upon oath or affirmation. All applications must contain:

- (1) The name and title of the applicant; and
- (2) A statement that there is probable cause to believe that items subject to seizure under G.S. 15A-242 may be found in or upon a designated or described place, vehicle, or person; and
- (3) Allegations of fact supporting the statement. The statements must be supported by one or more affidavits particularly setting forth the facts and circumstances establishing probable cause to believe that the items are in the places or in the possession of the individuals to be searched; and
- (4) A request that the court issue a search warrant directing a search for and the seizure of the items in question.

“§ 15A-245. *Basis for issuance of a search warrant.*—(a) Before acting on the application, the issuing official may examine on oath the applicant or any other person who may possess pertinent information, but information other than that contained in the affidavit may not be considered by the issuing official in determining whether probable cause exists for the issuance of the warrant unless the information is either recorded or contemporaneously summarized in the record or on the face of the warrant by the issuing official.

(b) If the issuing official finds that the application meets the requirements of this Article and finds there is probable cause to believe that the search will discover items specified in the application which are subject to seizure under G.S. 15A-242, he must issue a search warrant in accordance with the requirements of this Article. The issuing official must retain a copy of the warrant and warrant application and must promptly file them with the clerk. If he does not so find, the official must deny the application.

“§ 15A-246. *Form and content of the search warrant.*—A search warrant must contain:

(1) The name and signature of the issuing official with the time and date of issuance above his signature; and

(2) The name of a specific officer or the classification of officers to whom the warrant is addressed; and

(3) The names of the applicant and of all persons whose affidavits or testimony were given in support of the application; and

(4) A designation sufficient to establish with reasonable certainty the premises, vehicles, or persons to be searched; and

(5) A description or a designation of the items constituting the object of the search and authorized to be seized.

“§ 15A-247. *Who may execute a search warrant.*—A search warrant may be executed by any law enforcement officer acting within his territorial jurisdiction, whose investigative authority encompasses the crime or crimes involved.

“§ 15A-248. *Time of execution.*—A search warrant must be executed within 48 hours from the time of issuance. Any warrant not executed within that time limit is void and must be marked ‘not executed’ and returned without unnecessary delay to the clerk of the issuing court.

“§ 15A-249. *Notice of identity and purpose.*—The officer executing a search warrant must, before entering the premises, give appropriate notice of his identity and purpose to the person to be searched, or the person in apparent control of the premises to be searched. If it is unclear whether anyone is present at the premises to be searched, he must give the notice in a manner likely to be heard by anyone who is present.

“§ 15A-251. *Entry by force.*—An officer may break and enter any premises or vehicle when necessary to the execution of the warrant if:

(1) The officer has previously announced his identity and purpose as required by G.S. 15A-249 and reasonably believes either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied; or

(2) The officer has probable cause to believe that the giving of notice would endanger the life or safety of any person.

“§ 15A-252. *Service of a search warrant.*—Before undertaking any search or seizure pursuant to the warrant, the officer must read the warrant and give a copy of the warrant application and affidavit to the person to be searched, or the person in apparent control of the premises or vehicle to be searched. If no one in apparent and responsible control is occupying the premises or vehicle, the officer must leave a copy of the warrant affixed to the premises or vehicle.

“§ 15A-253. *Scope of the search; seizure of items not named in the warrant.*—The scope of the search may be only such as is authorized by the warrant and is reasonably necessary to discover the items specified therein. Upon discovery of the items specified, the officer must take possession or custody of them. If in the course of the search the officer inadvertently discovers items not specified in the warrant which are subject to seizure under G.S. 15A-242, he may also take possession of the items so discovered.

“§ 15A-254. *List of items seized.*—Upon seizing items pursuant to a search warrant, an officer must write and sign a receipt itemizing the items taken and containing the name of the court by which the warrant was issued. If the items were taken from a person, the receipt must be given to the person. If items are taken from a place or vehicle, the receipt must be given to the owner, or person in apparent control of the premises or vehicle if the person is present; or if he is

not, the officer must leave the receipt in the premises or vehicle from which the items were taken.

“§ 15A-255. *Frisk of persons present in premises or vehicle to be searched.*—An officer executing a warrant directing a search of premises or of a vehicle may, if the officer reasonably believes that his safety or the safety of others then present so requires, search for any dangerous weapons by an external patting of the clothing of those present. If in the course of such a frisk he feels an object which he reasonably believes to be a dangerous weapon, he may take possession of the object.

“§ 15A-256. *Detention and search of persons present in private premises or vehicle to be searched.*—An officer executing a warrant directing a search of premises not generally open to the public or of a vehicle other than a common carrier may detain any person present for such time as is reasonably necessary to execute the warrant. If the search of such premises or vehicle and of any persons designated as objects of the search in the warrant fails to produce the items named in the warrant, the officer may then search any person present at the time of the officer’s entry to the extent reasonably necessary to find property particularly described in the warrant which may be concealed upon the person, but no property of a different type from that particularly described in the warrant may be seized or may be the basis for prosecution of any person so searched. For the purpose of this section, all controlled substances are the same type of property.

“§ 15A-257. *Return of the executed warrant.*—An officer who has executed a search warrant must, without unnecessary delay, return to the clerk of the issuing court the warrant together with a written inventory of items seized. The inventory, if any, and return must be signed and sworn to by the officer who executed the warrant.

“§ 15A-258. *Disposition of seized property.*—Property seized shall be held in the custody of the person who applied for the warrant, or of the officer who executed it, or of the agency or department by which the officer is employed, or of any other law enforcement agency or person for purposes of evaluation or analysis, upon condition that upon order of the court the items may be retained by the court or delivered to another court.

“§ 15A-259. *Application of Article to all warrants; exception as to inspection warrants and special riot situations.*—The requirements of this Article apply to search warrants issued for any purpose, except that the contents of and procedure relating to inspection warrants are to be governed by the provisions of Article 4A of Chapter 15 and warrants to inspect vehicles in riot areas or approaching municipalities during emergencies are subject to the special procedures set out in G.S. 14-288.11. Nothing in this Article is intended to alter or affect the emergency search doctrine.

“Article 12.

(Reserved for future codification)

“Article 13.

(Reserved for future codification)

“Article 14.

“Nontestimonial Identification.

“§ 15A-271. *Authority to issue order.*—A nontestimonial identification order authorized by this Article may be issued by any judge upon request of a solicitor. As used in this Article, ‘nontestimonial identification’ means identification by

fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a suspect.

“§ 15A-272. *Time of application.*—A request for a nontestimonial identification order may be made prior to the arrest of a suspect or after arrest and prior to trial. Nothing in this Article shall preclude such additional investigative procedures as are otherwise permitted by law.

“§ 15A-273. *Basis for order.*—An order may issue only on an affidavit or affidavits sworn to before the judge and establishing the following grounds for the order:

(1) That there is probable cause to believe that an offense punishable by imprisonment for more than one year has been committed;

(2) That there are reasonable grounds to suspect that the person named or described in the affidavit committed the offense; and

(3) That the results of specific nontestimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense.

“§ 15A-274. *Issuance.*—Upon a showing that the grounds specified in G.S. 15A-273 exist, the judge may issue an order requiring the person named or described with reasonable certainty in the affidavit to appear at a designated time and place and to submit to designated nontestimonial identification procedures. Unless the nature of the evidence sought makes it likely that delay will adversely affect its probative value, the order must be served at least 72 hours before the time designated for the nontestimonial identification procedures.

“§ 15A-275. *Modification of order.*—At the request of a person ordered to appear, the judge may modify the order with respect to time and place of appearance whenever it appears reasonable under the circumstances to do so.

“§ 15A-276. *Failure to appear.*—Any person who fails without adequate excuse to obey an order to appear served upon him pursuant to this Article may be held in contempt of the court which issued the order.

“§ 15A-277. *Service of order.*—An order to appear pursuant to this Article may be served by a law enforcement officer. The order must be served upon the person named or described in the affidavit by delivery of a copy to him personally. The order must be served at least 72 hours in advance of the time of compliance, unless the judge issuing the order has determined, in accordance with G.S. 15A-274, that delay will adversely affect the probative value of the evidence sought.

“§ 15A-278. *Contents of order.*—An order to appear must be signed by the judge and must state:

(1) That the presence of the person named or described in the affidavit is required for the purpose of permitting nontestimonial identification procedures in order to aid in the investigation of the offense specified therein;

(2) The time and place of the required appearance;

(3) The nontestimonial identification procedures to be conducted, the methods to be used, and the approximate length of time such procedures will require;

(4) The grounds to suspect that the person named or described in the affidavit committed the offense specified therein;

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(5) That the person is entitled to be represented by counsel at the procedure, and to the appointment of counsel if he cannot afford to retain one;

(6) That the person will not be subjected to any interrogation or asked to make any statement during the period of his appearance except that required for voice identification;

(7) That the person may request the judge to make a reasonable modification of the order with respect to time and place of appearance, including a request to have any nontestimonial identification procedure other than a lineup conducted at his place of residence; and

(8) That the person, if he fails to appear, may be held in contempt of court.

“§ 15A-279. *Implementation of order.*—(a) Nontestimonial identification procedures may be conducted by any law enforcement officer or other person designated by the judge issuing the order. The extraction of any bodily fluid must be conducted by a qualified member of the health professions and the judge may require medical supervision for any other test ordered pursuant to this Article when he considers such supervision necessary.

(b) In conducting authorized identification procedures, no unreasonable or unnecessary force may be used.

(c) No person who appears under an order of appearance issued under this Article may be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures, and in no event for longer than six hours, unless he is arrested for an offense.

(d) Any such person is entitled to have counsel present and must be advised prior to being subjected to any nontestimonial identification procedures of his right to have counsel present during any nontestimonial identification procedure and to the appointment of counsel if he cannot afford to retain counsel. No statement made during nontestimonial identification procedures by the subject of the procedures shall be admissible in any criminal proceeding against him, unless his counsel was present at the time the statement was made.

(e) Any person who resists compliance with the authorized nontestimonial identification procedures may be held in contempt of the court which issued the order.

“§ 15A-280. *Return.*—Within 90 days after the nontestimonial identification procedure, a return must be made to the judge who issued the order or to a judge designated in the order setting forth an inventory of the products of the nontestimonial identification procedures obtained from the person named in the affidavit. If, at the time of the return, probable cause does not exist to believe that the person has committed the offense named in the affidavit or any other offense, the person named in the affidavit is entitled to move that the authorized judge issue an order directing that the products and reports of the nontestimonial identification procedures, and all copies thereof, be destroyed. The motion must, except for good cause shown, be granted.

“§ 15A-281. *Nontestimonial identification order at request of defendant.*—A person arrested for or charged with an offense punishable by imprisonment for more than one year may request that nontestimonial identification procedures be conducted upon himself. If it appears that the results of specific nontestimonial identification procedures will be of material aid in determining whether the defendant committed the offense, the judge to whom the request was directed must order the State to conduct the identification procedures.

“§ 15A-282. *Copy of results to person involved.*—A person who has been the subject of nontestimonial identification procedures or his attorney must be provided with a copy of any reports of test results as soon as the reports are available.

“Article 15.

“Urgent Necessity.

“§ 15A-285. *Non-law enforcement actions when urgently necessary.*—When an officer reasonably believes that doing so is urgently necessary to save life, prevent serious bodily harm, or avert or control public catastrophe, the officer may take one or more of the following actions:

- (1) Enter buildings, vehicles, and other premises.
- (2) Limit or restrict the presence of persons in premises or areas.
- (3) Exercise control over the property of others.

An action taken to enforce the law or to seize a person or evidence cannot be justified by authority of this section.

“Subchapter 3.

“Criminal Process.

“Article 17.

“Criminal Process.

“§ 15A-301. *Criminal process; generally.*—(a) Formal Requirements.

- (1) A copy of each criminal process issued in the trial division of the General Court of Justice must be filed in the office of the clerk.
- (2) Criminal process, other than a citation, must be signed and dated by the justice, judge, magistrate, or clerk who issues it. The citation must be signed and dated by the law enforcement officer who issues it.

(b) *To Whom Directed.* Warrants for arrest and orders for arrest must be directed to a particular officer, a class of officers, or a combination thereof, having authority and territorial jurisdiction to execute the process. A criminal summons must be directed to the person summoned to appear and must be delivered to and may be served by any law enforcement officer having authority and territorial jurisdiction to make an arrest for the offense charged. The citation must be directed to the person cited to appear.

(c) *Service.*

- (1) A law enforcement officer receiving criminal process for service or execution must note thereon the date of its receipt. Upon execution or service, a copy of the process must be delivered to the person arrested or served.
- (2) A corporation may be served with criminal summons as provided in G.S. 15A-773.

(d) *Return.*

- (1) The officer who serves or executes criminal process must enter the date of the service or execution on the process and return it to the clerk of court in the county in which issued.
- (2) If criminal process is not served or executed within the number of days indicated below, it must be returned to the clerk of court in the county in which it was issued, with the reason for the failure of service or execution noted thereon.
  - a. Warrant for arrest-90 days.
  - b. Order for arrest-90 days.
  - c. Criminal summons-90 days or the date the defendant is directed to

appear, whichever is earlier.

(3) Failure to return the process to the clerk does not invalidate the process, nor does it invalidate service or execution made after the period specified in subdivision (2).

(4) The clerk to which return is made may redeliver the process to a law enforcement officer for further attempts at service.

(e) Copies to be Made by Clerk.

(1) The clerk may make a certified copy of any criminal process filed in his office pursuant to subsection(a) when the original process has been lost or when the process has been returned pursuant to subdivision (d)(2). The copy may be executed as effectively as the original process.

(2) When criminal process is returned to the clerk pursuant to subdivision (d)(1) and it appears that the appropriate venue is in another county, the clerk must make and retain a certified copy of the process and transmit the original process to the clerk in the appropriate county.

(3) Upon request of a defendant, the clerk must make and furnish to him without charge one copy of every criminal process filed against him.

(f) Protection of Officer. An officer receiving criminal process which is complete and regular on its face may execute the process in accordance with its terms and need not inquire into its regularity or continued validity, nor does he incur criminal or civil liability for its due service.

“§ 15A-302. *Citation*.—(a) Definition. A citation is a directive, issued by a law enforcement officer, that a person appear in court and answer criminal charges.

(b) When Issued. An officer may issue a citation to any person who he has probable cause to believe has committed a misdemeanor.

(c) Contents. The citation must:

(1) Identify the crime charged, including the date, and where material, identify the property and other persons involved,

(2) Contain the name and address of the person cited, or other identification if that cannot be ascertained,

(3) Identify the officer issuing the citation, and

(4) Cite the person to whom issued to appear in a designated court, at a designated time and date.

(d) Service. A copy of the citation must be delivered to the person cited who must sign a receipt on the original, which the officer must file with the clerk.

(e) Dismissal by Solicitor. If the solicitor finds that no crime is charged in the citation, or that there is insufficient evidence to warrant prosecution, he may dismiss the charge and so notify the person cited. An appropriate entry must be made in the records of the clerk. It is not necessary to enter the dismissal in open court or to obtain consent of the judge.

(f) Citation No Bar to Criminal Summons or Warrant; Enforcement of Citation in Motor Vehicle Offenses.

(1) A criminal summons or a warrant may issue, notwithstanding the prior issuance of a citation for the same offense.

(2) Suspension of the driving privilege of a person who fails to appear when cited for a violation of the motor vehicle laws is as provided in G.S.20-16.4.

(g) Preparation of Form. The form and content of the citation is as prescribed by the Administrative Officer of the Courts. The form of citation used for

violation of the motor vehicle laws must contain a notice that the driving privilege of the person cited may be revoked for failure to appear as cited, and must be prepared as provided in G.S. 7A-148(b).

“§ 15A-303. *Criminal summons.*—(a) Definition. A criminal summons consists of a statement of the crime of which the person to be summoned is accused, and an order directing that the person so accused appear and answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) Statement of the Crime. The criminal summons must contain a statement of the crime of which the person summoned is accused. No criminal summons is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(c) Showing of Probable Cause; Record. The showing of probable cause for the issuance of a criminal summons, and the record thereof, is the same as provided in G.S. 15A-304(d) for the issuance of a warrant for arrest.

(d) Order to Appear. The summons must order the person named to appear in a designated court at a designated time and date and answer to the charges made against him and advise him that he may be held in contempt of court for failure to appear.

(e) Enforcement.

(1) A warrant for arrest, based upon the same or another showing of probable cause, may be issued by the same or another issuing official, notwithstanding the prior issuance of a criminal summons.

(2) An order for arrest, as provided in G.S. 15A-305, may issue for the arrest of any person who fails to appear as directed in a duly executed criminal summons.

(3) A person served with criminal summons who wilfully fails to appear as directed may be punished for contempt as provided in G.S. 5-1.

(4) A person served with a criminal summons for a violation of the motor vehicle laws who fails to appear is subject to suspension of his driving privilege pursuant to G.S. 20-16.4.

(f) Who May Issue. A criminal summons may be issued by any person authorized to issue warrants for arrest.

“§ 15A-304. *Warrant for arrest.*—(a) Definition. A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) When Issued. A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(c) Statement of the Crime. The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

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(d) Showing of Probable Cause. A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by either or both of the following:

(1) Affidavit,

(2) Oral testimony under oath or affirmation before the issuing official.

If the information is insufficient to show probable cause, the warrant may not be issued.

(e) Order for Arrest. The order for arrest must direct that a law enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) Who May Issue. A warrant for arrest, valid throughout the State, may be issued by:

(1) A Justice of the Supreme Court.

(2) A judge of the Court of Appeals.

(3) A judge of the superior court.

(4) A judge of the district court, as provided in G.S. 7A-291.

(5) A clerk, as provided in G.S. 7A-180 and 7A-181.

(6) A magistrate, as provided in G.S. 7A-273.

“§ 15A-305. *Order for arrest.*—(a) Definition. As used in this section, an order for arrest is an order issued by a justice, judge, clerk, or magistrate that a law enforcement officer take a named person into custody.

(b) When Issued. An order for arrest may be issued when:

(1) A grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody pursuant to Article 26 of this Chapter, Bail, to answer to the charges in the bill of indictment.

(2) A defendant who has been arrested and released from custody pursuant to Article 26 of this Chapter, Bail, fails to appear as required.

(3) The defendant has failed to appear as required by a duly executed criminal summons issued pursuant to G.S. 15A-303.

(4) A defendant has violated the conditions of probation or suspension of his sentence.

(5) In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody.

(6) It is authorized by G.S. 15A-803 in connection with material witness proceedings.

(7) The common law writ of *capias* has heretofore been issuable.

(c) Statement of Cause and Order; Copy of Indictment.

(1) The process must state the cause for its issuance and order an officer described in G.S. 15A-301(b) to take the person named therein into custody and bring him before the court. If the defendant is to be held without bail, the order must so provide.

(2) When the order is issued pursuant to subdivision (b) (1), a copy of the bill of indictment must be attached to each copy of the order for arrest.

“Articles 18 and 19.

(Reserved for future codification)

“Subchapter 4.

“Arrest.

“Article 20.

“Arrest.

“§ 15A-401. *Arrest by law enforcement officer.*—(a) Arrest by Officer Pursuant to a Warrant.

- (1) Warrant in possession of officer. An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.
  - (2) Warrant not in possession of officer. An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible.
- (b) Arrest by Officer Without a Warrant.
- (1) Offense in presence of officer. An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
  - (2) Offense out of presence of officer. An officer may arrest without a warrant any person who the officer has probable cause to believe:
    - a. Has committed a felony; or
    - b. Has committed a misdemeanor, and:
      1. Will not be apprehended unless immediately arrested, or
      2. May cause physical injury to himself or others, or damage to property unless immediately arrested.
- (c) How Arrest Made.
- (1) An arrest is complete when:
    - a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or
    - b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.
  - (2) Upon making an arrest, a law enforcement officer must:
    - a. Identify himself as a law enforcement officer unless his identity is otherwise apparent,
    - b. Inform the arrested person that he is under arrest, and
    - c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.
- (d) Use of Force in Arrest.
- (1) Subject to the provisions of subdivision (2), a law enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:
    - a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or
    - b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or

attempting to effect an arrest or while preventing or attempting to prevent an escape.

- (2) A law enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:
- a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
  - b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
  - c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force.

- (1) A law enforcement officer may enter private premises or a vehicle to effect an arrest when:
- a. The officer has in his possession a warrant or order for the arrest of a person or is authorized to arrest a person without a warrant or order having been issued,
  - b. The officer has reasonable cause to believe the person to be arrested is present, and
  - c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.
- (2) The law enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)(c) to enter without giving notice of his authority and purpose.

“§ 15A-402. *Territorial jurisdiction of officers to make arrests.*—(a) Territorial Jurisdiction of State Officers. Law enforcement officers of the State of North Carolina may arrest persons at any place within the State.

(b) Territorial Jurisdiction of County and City Officers. Law enforcement officers of cities and counties may arrest persons within their particular cities or counties and on any property and rights-of-way owned by the city or county outside its limits.

(c) City Officers, Outside Territory. Law enforcement officers of cities may arrest persons at any point which is one mile or less from the nearest point in the boundary of such city.

(d) County and City Officers, Immediate and Continuous Flight. Law enforcement officers of cities and counties may arrest persons outside the territory described in subsections (b) and (c) when the person arrested has committed a criminal offense within that territory, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight from that territory.

(e) County Officers, Outside Territory, for Felonies. Law enforcement officers of counties may arrest persons at any place in the State of North Carolina when the arrest is based upon a felony committed within the territory described in subsection(b).

“§ 15A-403. *Arrest by officers from other states.*—(a) Any law enforcement officer of a state contiguous to the State of North Carolina who enters this State in fresh pursuit and continues within this State in such fresh pursuit of a person who is in immediate and continuous flight from the commission of a criminal offense, has the same authority to arrest and hold in custody such person on the ground that he has committed a criminal offense in another state which is a criminal offense under the laws of the State of North Carolina as law enforcement officers of this State have to arrest and hold in custody a person on the ground that he has committed a criminal offense in this State.

(b) If an arrest is made in this State by a law enforcement officer of another state in accordance with the provisions of subsection(a), he must, without unnecessary delay, take the person arrested before a judicial official of this State, who must conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judicial official determines that the arrest was lawful, he must commit the person arrested to await a reasonable time for the issuance of an extradition warrant by the Governor of this State or release him pursuant to Article 26 of this Chapter, Bail. If the judicial official determines that the arrest was unlawful, he must discharge the person arrested.

(c) This section applies only to law enforcement officers of a state which by its laws has made similar provision for the arrest and custody of persons closely pursued within its territory.

“§ 15A-404. *Detention of offenders by private persons.*—(a) No Arrest; Detention Permitted. No private person may arrest another person except as provided in G.S. 15A-405. A private person may detain another person as provided in this section.

(b) When Detention Permitted. A private person may detain another person when he has probable cause to believe that the person detained has committed in his presence:

- (1) A felony,
- (2) A breach of the peace,
- (3) A crime involving physical injury to another person, or
- (4) A crime involving theft or destruction of property.

(c) Manner of Detention. The detention must be in a reasonable manner considering the offense involved and the circumstances of the detention.

(d) Period of Detention. The detention may be no longer than the time required for the earliest of the following:

- (1) The determination that no offense has been committed.
- (2) Surrender of the person detained to a law enforcement officer as provided in subsection(e).

(e) Surrender to Officer. A private person who detains another must immediately notify a law enforcement officer and must, unless he releases the person earlier as required by subsection(d), surrender the person detained to the law enforcement officer.

“§ 15A-405. *Assistance to law enforcement officers by private persons to effect arrest or prevent escape; benefits for private persons.*—(a) Assistance Upon Request; Authority. Private persons may assist law enforcement officers

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in effecting arrests and preventing escapes from custody when requested to do so by the officer. When so requested, a private person has the same authority to effect an arrest or prevent escape from custody as the officer making the request. He does not incur civil or criminal liability for an invalid arrest unless he knows the arrest to be invalid. Nothing in this subsection constitutes justification for willful, malicious or criminally negligent conduct by such person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(b) Benefits to Private Persons. A private person assisting a law enforcement officer pursuant to subsection(a) is:

- (1) To be treated as a citizen duly deputized as a deputy by a sheriff or other law enforcement officer in an emergency for the purposes of G.S. 143-166(m) (Law Enforcement Officers' Benefit and Retirement Fund);
- (2) Entitled to the same benefits as a 'law enforcement officer' as that term is defined in G.S. 143-166.2(4)(Law Enforcement Officers' Death Benefit Act); and
- (3) To be treated as an employee of the employer of the law enforcement officer within the meaning of G.S. 97-2(2)(Workmen's Compensation Act).

The Governor and the Council of State are authorized to allocate funds from the Contingency and Emergency Fund for the payment of benefits under subdivisions (1) and (3) when no other source is available for the payment of such benefits and when they determine that such allocation is necessary and appropriate.

“Articles 21 and 22.

(Reserved for future codification)

“Subchapter 5.

“Custody.

“Article 23.

“Police Processing and Duties Upon Arrest.

“§ 15A-501. *Police processing and duties upon arrest.*—Upon the arrest of a person, with or without a warrant, but not necessarily in the order hereinafter listed, a law enforcement officer:

- (1) Must inform the person arrested of the charge against him.
- (2) Must, with respect to any person arrested without a warrant and, for purpose of setting bail, with respect to any person arrested upon a warrant or order of arrest, take the person arrested before a judicial official without unnecessary delay.
- (3) May, prior to taking the person before a judicial official, take the person arrested to some other place if the person so requests.
- (4) May, prior to taking the person before a judicial official, take the person arrested to some other place if such action is reasonably necessary for the purpose of having that person identified.
- (5) Must without unnecessary delay advise the person arrested of his right to communicate with counsel and friends and must allow him reasonable time and reasonable opportunity to do so.

“§ 15A-502. *Photographs and fingerprints.*—(a) A person charged with the commission of a felony or a misdemeanor may be photographed and his fingerprints may be taken for law enforcement records only when he has been:

- (1) Arrested or committed to a detention facility, or
- (2) Committed to imprisonment upon conviction of a crime, or
- (3) Convicted of a felony.

(b) This section does not authorize the taking of photographs or fingerprints when the offense charged is a misdemeanor under Chapter 20 of the General Statutes, 'Motor Vehicles', for which the penalty authorized does not exceed a fine of five hundred dollars(\$500.00), imprisonment for six months, or both.

(c) This section does not authorize the taking of photographs or fingerprints of a 'child' as defined in G.S. 7A-278, unless the case has been transferred to the Superior Court Division pursuant to G.S. 7A-280.

(d) This section does not prevent the taking of photographs, moving pictures, video or sound recordings, fingerprints, or the like to show a condition of intoxication or for other evidentiary use.

(e) Fingerprints or photographs taken pursuant to subsection (a) may be forwarded to the State Bureau of Investigation, the Federal Bureau of Investigation, or other law enforcement agencies.

"Article 24.

"Initial Appearance.

"§ 15A-511. *Initial appearance.*—(a) Appearance Before Magistrate.

(1) A law enforcement officer making an arrest with or without a warrant must take the arrested person without unnecessary delay before a magistrate as provided in G.S. 15A-501.

(2) The magistrate must proceed in accordance with this section, except in those cases in which he has the power to determine the matter pursuant to G.S. 7A-273. In those cases, if the arrest has been without a warrant, the magistrate must prepare a statement of the crime with which the defendant is charged.

(b) Statement by the Magistrate. The magistrate must inform the defendant of:

- (1) The charges against him;
- (2) His right to communicate with counsel and friends; and
- (3) The general circumstances under which he may secure pretrial release.

(c) Procedure When Arrest is Without Warrant; Magistrate's Order. If the person has been arrested without a warrant:

(1) The magistrate must determine whether there is probable cause to believe that a crime has been committed and that the person arrested committed it, and in the manner provided by G.S. 15A-304(d).

(2) If the magistrate determines that there is no probable cause the person must be released.

(3) If the magistrate determines that there is probable cause, he must issue a magistrate's order:

a. Containing a statement of the crime of which the person is accused in the same manner as is provided in G.S. 15A-304(c) for a warrant for arrest, and

b. Containing a finding that the defendant has been arrested without a warrant and that there is probable cause for his detention.

(4) Following the issuance of the magistrate's order, the magistrate must proceed in accordance with subsection (e) and must file the order with any supporting affidavits and records in the office of the clerk.

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(d) Procedure When Arrest is Pursuant to Warrant. If the arrest is made pursuant to a warrant, the magistrate must proceed in accordance with subsection(e).

(e) Commitment or Bail. If the person arrested is not released pursuant to subsection(c), the magistrate must release him in accordance with Article 26 of this Chapter, Bail, or commit him to an appropriate detention facility pursuant to G.S. 15A-521 pending further proceedings in the case.

(f) Powers Not Limited to Magistrate. Any judge, justice, or clerk of the General Court of Justice may also conduct an initial appearance as provided in this section.

“Article 25.

“Commitment.

“§ 15A-521. *Commitment to detention facility pending trial.*—(a) Commitment. Every person charged with a crime and held in custody who has not been released pursuant to Article 26 of this Chapter, Bail, must be committed by a written order of the judicial official who conducted the initial appearance as provided in Article 24 to an appropriate detention facility as provided in this section.

(b) Order of Commitment; Modification. The order of commitment must:

- (1) State the name of the person charged or identify him if his name cannot be ascertained.
- (2) Specify the offense charged.
- (3) Designate the place of confinement.
- (4) If release is authorized pursuant to Article 26 of this Chapter, Bail, state the conditions of release. If a separate order stating the conditions has been entered, the commitment may make reference to that order, a copy of which must be attached to the commitment.
- (5) Subject to the provisions of subdivision(4), direct, as appropriate, that the defendant be:
  - a. Produced before a district court judge pursuant to Article 29 of this Chapter, First Appearance before District Court Judge,
  - b. Produced before a district court judge for a probable cause hearing as provided in Article 30 of this Chapter, Probable Cause,
  - c. Produced for trial in the district or superior court, or
  - d. Held for other specified purposes.
- (6) State the name and office of the judicial official making the order and be signed by him.

The order of commitment may be modified or continued by the same or another judicial official by supplemental order.

(c) Copies and Use of Order, Receipt of Prisoner.

- (1) The order of commitment must be delivered to a law enforcement officer, who must deliver the order and the prisoner to the detention facility named therein.
- (2) The jailer must receive the prisoner and the order of commitment, and note on the order of commitment the time and date of receipt. As used in this subdivision, 'jailer' includes any person having control of a detention facility.
- (3) Upon releasing the prisoner pursuant to the terms of the order, or upon

delivering the prisoner to the court, the jailer must note the time and date on the order and return it to the clerk.

- (4) When a judicial official issues an order of commitment, or an order supplemental to an order of commitment, a copy must be filed in the office of the clerk. The clerk must keep the copy separately available until the original order or supplemental order is returned to him, at which time both may be placed in the case file. Upon a change of venue the copies must be transmitted with the other papers in the case.

(d) Commitment of Witnesses. If a court directs detention of a material witness pursuant to G.S. 15A-803, the court must enter an order in the manner provided in this section, except that the order must:

- (1) State the reason for the detention in lieu of the description of the offense charged, and
- (2) Direct that the witness be brought before the appropriate court when his testimony is required.

“Article 26.

“Bail.

“§ 15A-531. *Definitions.*—As used in this Article the following definitions apply unless the context clearly requires otherwise:

(1) Bail Bond. An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State of North Carolina in a stated amount. Bail bonds include an unsecured appearance bond, a premium-secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 109-25, and an appearance bond secured by at least one solvent surety.

(2) Obligor. A principal or a surety on a bail bond.

(3) Principal. A defendant or material witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

(4) Surety. One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.

“§ 15A-532. *Persons authorized to determine conditions for release.*—Judicial officials may determine conditions for release of persons brought before them, in accordance with this Article.

“§ 15A-533. *Right to pretrial release in capital and noncapital cases.*—(a) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(b) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

“§ 15A-534. *Procedure for determining conditions of pretrial release.*—(a) In determining conditions of pretrial release a judicial official must impose one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount

secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 109-25, or by at least one solvent surety.

If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If a judicial official orders release of a defendant under conditions (1), (2), or (3), he may also place restrictions on the travel, associations, conduct, or place of abode of the defendant.

(b) The judicial official in granting pretrial release must impose condition (1), (2), or (3) in subsection(a) above unless he determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Upon making the determination, the judicial official must then impose condition (4) in subsection(a) above instead of condition (1), (2), or (3).

(c) In determining which conditions of release to impose, the judicial official must, on the basis of available information, take into account the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, character, and mental condition; the length of his residence in the community; his record of convictions; his history of flight to avoid prosecution or failure to appear at court proceedings; and any other evidence relevant to the issue of pretrial release.

(d) The judicial official authorizing pretrial release under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. The order of release must be filed with the clerk and a copy given the defendant.

(e) A magistrate or a clerk may modify his pretrial release order at any time prior to the initial appearance before the district court judge. At or after such initial appearance, except when the conditions of pretrial release have been reviewed by the superior court pursuant to G.S. 15A-539, a district court judge may modify a pretrial release order of the magistrate or clerk or any pretrial release order entered by him at any time prior to:

- (1) In a misdemeanor case tried in the district court, the noting of an appeal; and
- (2) In a case in the original trial jurisdiction of the superior court, the binding of the defendant over to superior court after the holding, or waiver, of a probable cause hearing.

After a case is before the superior court, a superior court judge may modify the pretrial release order of a magistrate, clerk, or district court judge, or any such order entered by him, at any time prior to the time set out in G.S. 15A-536(a).

(f) For good cause shown any judge may at any time revoke an order of pretrial release. Upon application of any defendant whose order of pretrial release has been revoked, the judge must set new conditions of pretrial release in accordance with this Article.

(g) In imposing conditions of pretrial release and in modifying and revoking orders of release under this section, the judicial official must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.

(h) A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the district court from which no appeal is taken or the entry of judgment in the superior court. The obligation of an obligor, however, is terminated at an earlier time if:

- (1) A judge authorized to do so releases the obligor from his bond; or
- (2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or
- (3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544(b); or
- (4) Prayer for judgment has been continued indefinitely in the district court.

“§ 15A-535. *Issuance of policies on pretrial release.*—Subject to the provisions of this Article, the senior resident superior court judge of each judicial district in consultation with the chief district court judge must devise and issue recommended policies to be followed within the district in determining whether, and upon what conditions, a defendant may be released before trial.

“§ 15A-536. *Release after conviction in the superior court.*—(a) A defendant whose guilt has been established in the superior court and is either awaiting sentence or has filed an appeal from the judgment entered may be ordered released upon conditions in accordance with the provisions of this Article.

(b) If release is ordered, the judge must impose the conditions set out in G.S. 15A-534(a) which will reasonably assure the presence of the defendant when required and provide adequate protection to persons and the community. If no single condition gives the assurance, the judge may impose the condition in G.S. 15A-534(a) (3) in addition to any other condition and may also, or in lieu of the condition in G.S. 15A-534(a)(3), place restrictions on the travel, associations, conduct, or place of abode of the defendant.

(c) In determining what conditions of release to impose, the judge must, on the basis of available information, consider the appropriate factors set out in G.S. 15A-534(c).

(d) A judge authorizing release of a defendant under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any such violation. The order of release must be filed with the clerk and a copy given the defendant.

(e) An order of release may be modified or revoked by any superior court judge who has ordered the release of a defendant under this section or, if that judge is absent from the judicial district, by any other superior court judge. If the defendant is placed in custody as the result of a revocation or modification of an order of release, the defendant is entitled to an immediate hearing on whether he is again entitled to release and, if so, upon what conditions.

(f) In imposing conditions of release and in modifying and revoking orders of release under this section, the judge must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.

“§ 15A-537. *Persons authorized to effect release.*—(a) Following any authorization of release of any person in accordance with the provisions of this Article, any judicial official, or in the absence of a judicial official, the sheriff or

any law enforcement officer having custody must effect the release of the person upon the official's satisfying himself that the conditions of release, if any, have been met. In no event shall there be civil liability to any judicial official, sheriff, or law enforcement officer for his actions in good faith pursuant to this subsection.

(b) A sheriff or other officer having custody of any person who has been imprisoned because of failure to meet conditions (3) or (4) of G.S. 15A-534(a) must release him upon determination that the conditions imposed by the judicial official authorizing release have been met. Any surety bond taken by the officer is to be regarded in every respect as any other bail bond. Upon the release of the person in question, the officer must file a return and with it the bond, deposit, or mortgage, if any, with the clerk.

(c) For the limited purposes of this section, any officer acting under the authority of this section may administer oaths to sureties and take other actions necessary in carrying out the duties imposed by this section.

“§ 15A-538. *Modification of order on motion of person detained; substitution of surety.*—(a) A person who is detained or objects to the conditions required for his release, which were imposed or allowed to stand by order of a district court judge, may apply in writing to a superior court judge to modify the order.

(b) The power to modify an order includes the power to substitute sureties upon any bond. Substitution or addition of acceptable sureties may be made at the request of any obligor on a bond or, in the interests of justice, at the request of a solicitor under the provisions of G.S. 15A-539.

“§ 15A-539. *Modification upon motion of solicitor.*—A solicitor may at any time apply to an appropriate district court judge or superior court judge for modification or revocation of an order of release under this Article.

“§ 15A-540. *Surrender of a principal by a surety; setting new conditions of release.*—(a) A surety may surrender his principal to the sheriff of the county in which the principal is bonded to appear. A surety may arrest his principal for the purpose of returning him to the sheriff. Upon surrender of the principal the sheriff must provide a receipt to the surety, a copy of which must be filed with the clerk. Upon application by the surety after the surrender of the principal, before the forfeiture of bail under G.S. 15A-544(b), the clerk must exonerate him from his bond.

(b) A principal surrendered by his surety is entitled to an immediate hearing on whether he is again entitled to release and, if so, upon what conditions.

“§ 15A-541. *Persons prohibited from becoming surety.*—(a) No sheriff, deputy sheriff, other law enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of the General Court of Justice, other public employee assigned to duties relating to the administration of criminal justice, or spouse of any such person may in any case become surety on a bail bond for any person other than a member of his immediate family. In addition no person covered by this section may act as agent for any bonding company or professional bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as bondsman.

(b) A violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both.

“§ 15A-542. *False qualification by surety.*—(a) No person may sign an appearance bond as surety knowing or having reason to know that he does not own sufficient property over and above his exemption allowed by law to enable him to pay the bond should it be ordered forfeited.

(b) A violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or both.

“§ 15A-543. *Penalties for failure to appear.*—(a) In addition to forfeiture imposed under G.S. 15A-544, any person released pursuant to this Article who wilfully fails to appear before any court or judicial official as required is subject to the criminal penalties set out in this section.

(b) A violation of this section is a felony punishable by a fine not to exceed three thousand dollars (\$3,000), imprisonment for not more than three years, or both, if:

- (1) The violator was released in connection with a felony charge against him; or
- (2) The violator was released under the provisions of G.S. 15A-536.

(c) If, except as provided in subsection(b) above, a violator was released in connection with a misdemeanor charge against him, a violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment not to exceed six months, or both.

“§ 15A-544. *Forfeiture.*—(a) By entering into a bail bond the obligor submits himself to the jurisdiction of the court and irrevocably appoints the clerk as his agent for any proceedings with reference to the bond. His liability may be enforced on motion without the necessity of an independent action.

(b) If the principal does not comply with the conditions of the bail bond, the court having jurisdiction must enter an order declaring the bail to be forfeited. If forfeiture is ordered by the court, a copy of the order of forfeiture and notice that judgment will be entered upon the order after 30 days must be served on each obligor. Service is to be made by the sheriff by delivery of the order and notice to him or by delivery at his dwelling house or place of abode with some person of suitable age and discretion residing therein. If the sheriff is unable to effect service because an obligor cannot be found or has no dwelling house or place of abode known to the sheriff, he must file a return to this effect; the clerk must then mail a copy of the order of forfeiture and notice to the obligor at his address of record and note on the original the date of mailing. Service is complete three days after the mailing.

(c) If the principal does not appear before the court having jurisdiction within 30 days of the date of service, or on the first day of the next session of court commencing more than 30 days after the date of service, and satisfy the court that his appearance on the date set was impossible or that his failure to appear was without his fault, the court must enter judgment for the State against the principal and his sureties for the amount of the bail and the costs of the proceedings. If the principal appears within the time allowed following the date of service and satisfies the court that his appearance on the date set was impossible or that his failure to appear was without his fault, the order of forfeiture must be set aside. If the principal appears but is unable to satisfy the court that his appearance on the date set was impossible or that his failure to appear was without his fault, but the court determines that justice does not

require the forfeiture of the full amount of the bond, the court may enter judgment in an amount it considers appropriate.

(d) To facilitate the procedure under this section, the clerk in each county must present a forfeiture roll at the first session of superior court commencing more than 30 days after the entry of any order of forfeiture in either the district or superior court. The forfeiture roll must list the names of all principals as to which forfeiture has been ordered in the county in the past three years and as to which judgments of forfeiture against obligors have not been entered or, if entered, not yet satisfied by execution. In addition, the forfeiture roll must show the amount of the bond ordered forfeited in each case and the names of all sureties liable on each bond.

(e) At any time within 90 days after entry of the judgment against a principal or his surety, or on the first day of the next session of court commencing more than 90 days after the entry of the judgment, the court may direct that the judgment be remitted in whole or in part, upon such conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment.

(f) If a judgment has not been remitted within the period provided in subsection(e) above, the clerk must issue execution on the judgment within 30 days, and remit the clear proceeds to the county for use in maintaining free public schools. Any clerk who fails to perform his duty as required in this subsection is subject to a penalty of five hundred dollars (\$500.00).

(g) If a return of execution upon a judgment against an obligor remains unsatisfied for 10 days, the obligor may not become surety on any bail bond in the judicial district so long as the judgment remains unsatisfied.

(h) For extraordinary cause shown, the court which has entered judgment upon a forfeiture of a bond may, after execution, remit the judgment in whole or in part and order the clerk to refund such amounts as the court considers appropriate. Any person moving for remission of judgment must do so by verified petition, and a copy of the petition must be served upon the attorney for the county school board at least three working days prior to the hearing on the motion. The moving party must notify the attorney for the school board of the time and place of the hearing, and such attorney, if he so desires, must be given an opportunity to appear and be heard. If money has been paid to the county pursuant to execution on a judgment of forfeiture, it must refund to the person entitled the amount of any remission granted under the terms of this subsection upon receipt of a certified copy of the judgment of remission from the clerk.

“§ 15A-546. *Contempt.*—Nothing in this Article is intended to interfere with or prevent the exercise by the court of its contempt powers.

“§ 15A-547. *Right to habeas corpus.*—Nothing in this Article is intended to abridge the right of habeas corpus.

“Articles 27 and 28.

(Reserved for future codification)

“Subchapter 6.

“Preliminary Proceedings.

“Article 29.

“First Appearance Before District Court Judge.

“§ 15A-601. *First appearance before a district court judge; right in felony and other cases in original jurisdiction of superior court; consolidation of first appearance before magistrate and before district court judge.*—(a) Any

defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a crime in the original jurisdiction of the superior court must be brought before a district court judge in the judicial district in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, he may consolidate those proceedings and the proceedings under this Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within 96 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, within 96 hours after being taken into custody, first appearance must be held at the next session of district court held in the county. With the consent of the defendant and the solicitor, it may be continued for not more than seven additional days, or until the next session of district court, whichever period is greater. The defendant may not waive the holding of the first appearance before a district court judge but he need not appear personally if he is represented by counsel at the proceeding.

“§ 15A-602. *Warning of right against self-incrimination.*—Except when he is accompanied by his counsel, the judge must inform the defendant of his right to remain silent and that anything he says may be used against him.

“§ 15A-603. *Assuring defendant's right to counsel.*—(a) The judge must determine whether the defendant has retained counsel or, if indigent, has been assigned counsel.

(b) If the defendant is not represented by counsel, the judge must inform the defendant that he has important legal rights which may be waived unless asserted in a timely and proper manner and that counsel may be of assistance to the defendant in advising him and acting in his behalf. The judge must inform the defendant of his right to be represented by counsel and that he will be furnished counsel if he is indigent.

(c) If the defendant asserts that he is indigent and desires counsel, the judge must proceed in accordance with the provisions of Article 36 of Chapter 7A of the General Statutes.

(d) If the defendant is found not to be indigent and indicates that he desires to be represented by counsel, the judge must inform him that he should obtain counsel promptly.

(e) If the defendant desires to waive representation by counsel, the waiver must be in writing in accordance with the provisions of Article 36 of Chapter 7A of the General Statutes except as otherwise provided in this Article.

“§ 15A-604. *Determination of sufficiency of charge.*—(a) The judge must examine each criminal process or magistrate's order and determine whether each charge against the defendant charges a criminal offense within the original jurisdiction of the superior court.

(b) If the judge determines that the process or order fails to charge a criminal offense within the original jurisdiction of the superior court, he must notify the solicitor and take further appropriate action, including one or more of the following:

- (1) Dismiss the charge.
- (2) Permit the State to amend the statement of the crime in the process or order.
- (3) Continue the proceedings, for not more than 24 hours, to permit the State to initiate new charges.
- (4) With the consent of the solicitor, set the case for trial in the district court if the charge is found to be within the original jurisdiction of the district court.

“§ 15A-605. *Additional proceedings at first appearance before judge.*—The judge must:

- (1) Inform the defendant of the charges against him;
- (2) Determine that the defendant or his counsel has been furnished a copy of the process or order; and
- (3) Determine or review the defendant’s eligibility for release under Article 26 of this Chapter, Bail.

“§ 15A-606. *Demand or waiver of probable cause hearing.*—(a) The judge must schedule a probable cause hearing unless the defendant waives in writing his right to such hearing. A defendant represented by counsel, or who desires to be represented by counsel, may not before the date of the scheduled hearing waive his right to a probable cause hearing without the written consent of the defendant and his counsel.

(b) Evidence of a demand or waiver of a probable cause hearing may not be admitted at trial.

(c) If the defendant waives a probable cause hearing, the district court judge must bind the defendant over to the superior court for further proceedings in accordance with this Chapter.

(d) If the defendant does not waive a probable cause hearing, the district court judge must schedule a hearing not later than 15 working days following the initial appearance before the district court judge; if no session of the district court is scheduled in the county within 15 working days, the hearing must be scheduled for the first day of the next session. The hearing may not be scheduled sooner than five working days following such initial appearance without the consent of the defendant and the solicitor.

(e) If an unrepresented defendant is not indigent and has indicated his desire to be represented by counsel, the district court judge must inform him that he has a choice of appearing without counsel at the probable cause hearing or of securing the attendance of counsel to represent him at the hearing. The judge must further inform him that the judge presiding at the hearing will not continue the hearing because of the absence of counsel except for extraordinary cause.

(f) Upon a showing of good cause, a scheduled probable cause hearing may be continued by the district court upon timely motion of the defendant or the State. Except for extraordinary cause, a motion is not timely unless made at least 48 hours prior to the time set for the probable cause hearing.

(g) If after the first appearance before a district court judge a defendant with consent of counsel desires to waive his right to a probable cause hearing, he may do so in writing filed with the court signed by defendant and his counsel. Upon waiver the defendant must be bound over to the superior court.

“Article 30.

“Probable Cause Hearing.

“§ 15A-611. *Probable cause hearing; procedure.*—(a) At the probable cause hearing:

- (1) A solicitor must represent the State.
- (2) The defendant may be represented by counsel.
- (3) The defendant may testify as a witness in his own behalf and call and examine other witnesses, and produce other evidence in his behalf.
- (4) Each witness must testify under oath or affirmation and is subject to cross-examination.

(b) The State must by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the defendant committed it, except:

- (1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed by him in connection with the case in issue, when stated by such person in a report made by him, is admissible in evidence.
- (2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in another than the defendant, lack of consent of the owner, possessor, or custodian of property to its taking or to the breaking or entering of premises, chain of custody, authenticity of signatures, and the existence and text of a particular ordinance or regulation of a governmental unit or agency.

The district court judge is not required to exclude evidence on the ground that it was acquired by unlawful means.

(c) If a defendant appears at a probable cause hearing without counsel, the judge must determine whether counsel has been waived. If he determines that counsel has been waived, he may proceed without counsel. If he determines that counsel has not been waived, except in a situation covered by G.S. 15A-606(e) he must take appropriate action to secure the defendant's right to counsel.

(d) A probable cause hearing may not be held if an information in superior court is filed upon waiver of indictment before the date set for the hearing.

“§ 15A-612. *Probable cause hearing; disposition of charge.*—(a) At the conclusion of a probable cause hearing the judge must take one of the following actions:

- (1) If he finds that the defendant probably committed the offense charged, or a lesser included offense of such offense within the original jurisdiction of the superior court, he must bind the defendant over to a superior court for further proceedings in accordance with this Chapter. The judge must note his findings in the case records.
- (2) If he finds no probable cause as to the offense charged but probable cause with respect to a lesser included offense within the original jurisdiction of the district court, he may set the case for trial in the district court in accordance with the terms of G.S. 15A-613. In the absence of a new warrant or information, the judge may not set a case for trial in the district court on any offense which is not lesser included.
- (3) If he finds no probable cause pursuant to subdivisions (1) or (2) as to any charge, he must dismiss the proceedings in question.

(b) No finding made by a judge under this section precludes the State from instituting a subsequent prosecution for the same offense.

“§ 15A-613. *Probable cause hearing; setting offense for trial in district court.*—If an offense set for trial in the district court under the terms of G.S. 15A-604(b)(4) or any provision of G.S. 15A-612 is a lesser included offense of the charge before the court on a pleading, the judge may:

- (1) Accept a plea of guilty or no contest, with the consent of the solicitor; or
- (2) Proceed to try the offense immediately, with the consent of both the defendant and the solicitor.

Otherwise, the judge must enter an appropriate order for subsequent calendaring of the case for trial in the district court. The trial so ordered may not be earlier than five working days nor later than 15 working days from the date of the order. The judge must note in the case records the new offense with which the defendant is charged, has been tried, or to which he entered a plea of guilty or no contest.

“§ 15A-614. *Probable cause hearing; review of eligibility for pretrial release.*—Upon binding a defendant in custody over to the superior court for trial or upon entering an order for subsequent calendaring of the case of such a defendant for trial in the district court, the judge must again review the eligibility of the defendant for release under Article 26 of this Chapter, Bail.

“Article 31.

“The Grand Jury and Its Proceedings.

“§ 15A-621. *Grand jury; definition.*—A grand jury is a body consisting of not less than 12 nor more than 18 persons, impaneled by a superior court and constituting a part of such court.

“§ 15A-622. *Formation and organization of grand jury; other preliminary matters.*—(a) The mode of selecting grand jurors and of drawing and impaneling grand jurors is governed by this Article and Chapter 9 of the General Statutes, Jurors.

(b) To impanel a new grand jury, the presiding judge must direct that the names of all persons returned as jurors be separately placed in a container. The clerk must draw out the names of 18 persons to serve as grand jurors. Of these 18, the first nine drawn serve until the first session of court at which criminal cases are heard held in the county after the following January 1, and thereafter until their replacements are selected and sworn. The next nine serve until the first session of court at which criminal cases are heard held in the county after the following July 1, and thereafter until their replacements are selected and sworn. If this formula results in any term likely to be shorter than two months or longer than 15 months, the presiding judge impaneling the grand jury may modify the terms. Thereafter, beginning with the first session of superior court at which criminal cases are heard held in the county following January 1 and July 1 of each year, nine new grand jurors must be selected in the manner provided above to replace the jurors whose terms have expired. All new grand jurors so selected serve until the first session of court at which criminal cases are heard held after January 1 or July 1 which most nearly results in a 12-month term, and thereafter until their replacements are selected and sworn. If a vacancy occurs in the membership of the grand jury, the superior court judge next convening the jury or next holding a session of court at which criminal cases are heard in the county may order that a new juror be drawn in the manner provided above to fill the vacancy.

(c) Neither the grand jury panel nor any individual grand juror may be challenged, but a superior court judge may:

- (1) At any time before new grand jurors are sworn, discharge them, or discharge the grand jury, and cause new grand jurors or a new grand jury to be drawn if he finds that jurors have not been selected in accordance with law or that the grand jury is illegally constituted; or
- (2) At any time after a grand juror is drawn, refuse to swear him, or discharge him after he has been sworn, upon a finding that he is disqualified from service, incapable of performing his duties, or guilty of misconduct in the performance of his duties so as to impair the proper functioning of the grand jury.

(d) The presiding judge may excuse a grand juror from service of the balance of his term, upon his own motion or upon the juror's request for good cause shown. The foreman may excuse individual jurors from attending particular sessions of the grand jury, except that he may not excuse more than two jurors for any one session.

(e) After the impaneling of a new grand jury, or the impaneling of nine new jurors under the terms of this section, the presiding judge must appoint one of the grand jurors as foreman and may appoint another to act as foreman during any absence or disability of the foreman. Unless removed for cause by a superior court judge, the foreman serves until his successor is appointed and sworn.

(f) The foreman and other new grand jurors must take the oath prescribed in G.S. 11-11. After new grand jurors have been sworn, the presiding judge may give the grand jurors written or oral instructions relating to the performance of their duties. At subsequent sessions of court, the presiding judge is not required to give any additional instructions to the grand jurors.

(g) At any time when a grand jury is in recess, a superior court judge may, upon application of the solicitor or upon his own motion, order the grand jury reconvened for the purpose of dealing with a matter requiring grand jury action.

“§ 15A-623. *Grand jury proceedings and operation in general.*—(a) The finding of an indictment, the return of a presentment, and every other affirmative official action or decision of the grand jury requires the concurrence of at least 12 members of the grand jury.

(b) The foreman presides over all hearings and has the power to administer oaths or affirmations to all witnesses.

(c) The foreman must indicate on each bill of indictment or presentment the witness or witnesses sworn and examined before the grand jury. Failure to comply with this provision does not vitiate a bill of indictment or presentment.

(d) During the deliberations and voting of a grand jury, only the grand jurors may be present in the grand jury room. During its other proceedings, the following persons, in addition to a witness being examined, may, as the occasion requires, also be present:

- (1) An interpreter, if needed.
- (2) A law enforcement officer holding a witness in custody.

Any person other than a witness who is permitted in the grand jury room must first take an oath before the grand jury that he will keep secret all matters before it within his knowledge.

(e) Grand jury proceedings are secret and, except as expressly provided in this Article, members of the grand jury and all persons present during its sessions

shall keep its secrets and refrain from disclosing anything which transpires during any of its sessions.

(f) The presiding judge may direct that a bill of indictment be kept secret until the defendant is arrested or appears before the court. The clerk must seal the bill of indictment and no person including a witness may disclose the finding of the bill of indictment, or the proceedings leading to the finding, except when necessary for the issuance and execution of an order of arrest.

(g) Any grand juror or other person authorized to attend sessions of the grand jury and bound to keep its secrets who discloses, other than to his attorney, matters occurring before the grand jury other than in accordance with the provisions of this section is in contempt of court and subject to proceedings in accordance with law.

“§ 15A-624. *Grand jury the judge of facts; judge the source of legal advice.*—

(a) The grand jury is the exclusive judge of the facts with respect to any matter before it.

(b) The legal advisor of the grand jury is the presiding or convening judge.

“§ 15A-626. *Who may call witnesses before grand jury; no right to appear without consent of solicitor or judge.*—(a) Except as provided in this section, no person has a right to call a witness or appear as a witness in a grand jury proceeding.

(b) In proceedings upon bills of indictment submitted by the solicitor to the grand jury, the clerk must call as witnesses the persons whose names are listed on the bills by the solicitor. If the grand jury desires to hear any witness not named on the bill under consideration, it must through its foreman request the solicitor to call the witness. The solicitor in his discretion may call, or refuse to call, the witness.

(c) In considering any matter before it a grand jury may swear and hear the testimony of a member of the grand jury.

(d) Any person not called as a witness who desires to testify before the grand jury concerning a criminal matter which may properly be considered by the grand jury must apply to the district solicitor or to a superior court judge. The judge or the district solicitor in his discretion may call the witness to appear before the grand jury.

(e) An official who is required or authorized to call a witness before the grand jury does so by issuing a subpoena for the witness or by causing one to be issued. If the official is assured that the witness will appear when requested without issuance of a subpoena, he may call the witness simply by notifying him of the time and place his presence is requested before the grand jury.

“§ 15A-627. *Submission of bill of indictment to grand jury by solicitor.*—(a) When a defendant has been bound over for trial in the superior court upon any charge in the original jurisdiction of such court, the solicitor, unless he dismisses the charge under the terms of Article 50 of this Chapter, Voluntary Dismissal by the State, or proceeds upon a bill of information, must submit a bill of indictment charging the offense to the grand jury for its consideration.

(b) A solicitor may submit a bill of indictment charging an offense within the original jurisdiction of the superior court.

“§ 15A-628. *Functions of the grand jury.*—(a) A grand jury:

- (1) Must return a bill submitted to it by the solicitor as a true bill of indictment if it finds from the evidence probable cause for the charge made.
- (2) Must return a bill submitted to it by the solicitor as not a true bill of indictment if it fails to find probable cause for the charge made. Upon returning a bill of indictment as not a true bill, the grand jury may request the solicitor to submit a bill of indictment as to a lesser included or related offense.
- (3) May return the bill to the court with an indication that the grand jury has not been able to act upon it because of the unavailability of witnesses.
- (4) May investigate any offense as to which no bill of indictment has been submitted to it by the solicitor and issue a presentment accusing a named person or named persons with one or more criminal offenses if it has found probable cause for the charges made. An investigation may be initiated upon the concurrence of 12 members of the grand jury itself or upon the request of the presiding or convening judge or the solicitor.
- (5) Must inspect the jail and may inspect other county offices or agencies and must report the results of its inspections to the court.

(b) In proceeding under subsection (a), the grand jury may consider any offense which may be prosecuted in the courts of the county, or in the courts of the judicial district when there has been a waiver of venue in accordance with Article 3 of this Chapter, Venue.

(c) Bills of indictment submitted by the solicitor to the grand jury, whether found to be true bills or not, must be returned by the foreman of the grand jury to the presiding judge in open court. Presentments must also be returned by the foreman of the grand jury to the presiding judge in open court.

(d) The clerk must keep a permanent record of all matters returned by the grand jury to the judge under the provisions of this section.

“§ 15A-629. *Grand jury procedure upon finding of not a true bill; dismissal of charge; release of defendant; restrictions upon further prosecution.*—(a) Upon the return of a bill of indictment as not a true bill, the presiding judge must immediately examine the case records to determine if the defendant is in custody or subject to bail or conditions of pretrial release. If so, except as provided in subsection (b), the judge must immediately order release from custody, exoneration of bail, or release from conditions of pretrial release, as the case may be.

(b) Upon the return of a bill of indictment as not a true bill but with a request that the solicitor submit a bill of indictment to a lesser included or related offense, the judge may defer the action required in subsection (a) for a reasonable period, not to extend past the end of that session of superior court, to allow the institution of the new charge.

“§ 15A-630. *Service of notice upon defendant required when grand jury returns true bill of indictment.*—(a) Except as provided in subsection (b) and (c), upon the return of a bill of indictment as a true bill the presiding judge must immediately cause notice of the indictment to be served upon the defendant. The notice must inform the defendant of the time limitations upon his right to discovery under Article 48 of this Chapter, Discovery in the Superior Court, and a copy of the indictment must be attached to the notice.

(b) The provisions of subsection (a) do not apply if;

- (1) The defendant was afforded or waived a probable cause hearing authorized under Article 30 of this Chapter, Probable Cause Hearing, on the charge in the indictment;
- (2) The defendant was represented by counsel of record, under Article 4 of this Chapter, Entry and Withdrawal of Attorney in Criminal Case, at the time the probable cause hearing was held or waived; and
- (3) The defendant is still represented by counsel of record at the time the indictment is returned.

“Article 32.

“Indictment and Related Instruments.

“§ 15A-641. *Indictment and related instruments; definition of indictment, information, and presentment.*—(a) An indictment is a written accusation by a grand jury, filed with a superior court, charging a person with the commission of one or more criminal offenses.

(b) An information is a written accusation by a solicitor, filed with a superior court, charging a person represented by counsel, with the commission of one or more criminal offenses.

(c) A presentment is a written accusation by a grand jury, made on its own motion and filed with a superior court, charging a person, or two or more persons jointly, with the commission of one or more criminal offenses. A presentment does not institute criminal proceedings against any person, but the district solicitor is obligated to investigate the factual background of every presentment returned in his district and to submit bills of indictment to the grand jury dealing with the subject matter of any presentments when it is appropriate to do so.

“§ 15A-642. *Waiver of indictment.*—(a) Prosecutions originating in the superior court must be upon pleadings as provided in Article 49 of this Chapter, Pleadings and Joinder.

(b) Indictment may not be waived in a capital case or in a case in which the defendant is not represented by counsel.

(c) Waiver of indictment must be in writing and signed by the defendant and his attorney. The waiver must be attached to or executed upon the bill of information.

“§ 15A-643. *Joinder of offenses and defendants and consolidation of indictments and informations.*—The rules with respect to joinder of offenses and defendants and the consolidation of charges in indictments and informations are provided in Article 49 of this Chapter, Pleadings and Joinder.

“§ 15A-644. *Form and content of indictments and information.*—(a) An indictment must contain:

- (1) The name of the superior court in which it is filed;
- (2) The title of the action;
- (3) Criminal charges pleaded as provided in Article 49 of this Chapter, Pleadings and Joinder;
- (4) The signature of the solicitor, but its omission is not a fatal defect; and
- (5) The signature of the foreman or acting foreman of the grand jury attesting the concurrence of 12 or more grand jurors in the finding of a true bill of indictment.

(b) An information must contain everything required of an indictment in subsection(a) except that the accusation is that of the solicitor and the

provisions of subdivision (a)(5) do not apply. The information must also contain or have attached the waiver of indictment pursuant to G.S. 15A-642(c).

(c) A presentment must contain everything required of an indictment in subsection(a) except that the provisions of subdivisions (a)(4) and(5) do not apply and the foreman must by his signature attest the concurrence of 12 or more grand jurors in the presentment.

“§ 15A-645. *Allegations of previous convictions.*—Trial upon indictments and informations involving allegation of previous convictions is subject to the provisions of G.S. 15A-928.

“§ 15A-646. *Superseding indictments and informations.*—If at any time before entry of a plea of guilty to an indictment or information, or commencement of a trial thereof, another indictment or information is filed in the same court charging the defendant with an offense charged or attempted to be charged in the first instrument, the first one is, with respect to the offense, superseded by the second and, upon the defendant’s arraignment upon the second indictment or information, the count of the first instrument charging the offense must be dismissed by the superior court judge. The first instrument is not, however, superseded with respect to any count contained therein which charged an offense not charged in the second indictment or information.

“Articles 33 and 34.

(Reserved for future codification)

“Subchapter 7.

“Speedy Trial; Attendance of Witnesses.

“Article 35.

“Speedy Trial.

“§ 15A-701. *Policy of appropriate promptness.*—It is the policy of this State to minimize undue delay and to further the prompt disposition of criminal cases. The powers granted by this Article should be used to pursue this policy.

“§ 15A-702. *Speedy trial for defendants.*—(a) A superior court judge presiding over a mixed or criminal session may order prompt trial as provided in subsection (b) for a defendant charged with an offense within the original jurisdiction of the superior court or a misdemeanor docketed in superior court for trial de novo. A district court judge may order prompt trial as provided in subsection (b) for any person charged with a misdemeanor pending in district court.

(b) A judge authorized by subsection (a) to order a defendant’s prompt trial may order the defendant’s case brought to trial or disposed of within a period not less than 30 days, determined by the judge, when:

- (1) The venue of the defendant’s case lies in the county in which the judge is presiding and the defendant has been confined awaiting trial of that case for a period greater than 60 days; or
- (2) The defendant has been confined awaiting trial for a period greater than 30 days and files with the judge a petition requesting prompt trial, as authorized by G.S. 15A-703; or
- (3) The venue of the defendant’s case lies in the county in which the judge is presiding and the defendant has been awaiting trial for a period greater than 90 days; or
- (4) The defendant has been awaiting trial for a period greater than 60 days

and files a petition with the judge requesting prompt trial, as authorized by G.S. 15A-703.

The judge's order may provide that, if the case is not brought to trial or disposed of within the period specified by his order, the defendant must be released upon his own recognizance or the charges against the defendant must be dismissed with prejudice.

(c) The period of a defendant's awaiting trial or of confinement awaiting trial commences to run upon a date determined according to the provisions of G.S. 15A-705 and excludes those periods specified in G.S. 15A-706.

"§ 15A-703. *Petition for speedy trial.*—(a) A defendant may file a petition for prompt trial of his case when:

- (1) He has been confined awaiting trial of that case for a period more than 30 days; or
- (2) He has been awaiting trial for a period greater than 60 days.

(b) The defendant must file the petition for prompt trial with a judge authorized by G.S. 15A-702(a) to order prompt trial of his case and presiding in the county in which venue of his case lies, or, in the event that no such judge is presiding in that county, in the judicial district embracing the county in which venue lies.

"§ 15A-704. *Consequences to defendant of petition for speedy trial.*—A defendant who files a petition for prompt trial, as authorized by G.S. 15A-703, accepts venue anywhere within the judicial district and may not continue or delay his case except on the basis of matters which arise after he files the petition and which he or his counsel could not have reasonably anticipated. The defendant may withdraw the petition for prompt trial only on order of the court, for good cause shown or with consent of the State.

"§ 15A-705. *When period of awaiting trial or confinement begins.*—(a) A defendant commences his period of confinement awaiting trial on the latest of the following:

- (1) The date he is first confined awaiting trial on that charge; or
- (2) The date he is reconfined after his escape from confinement awaiting trial on that charge; or
- (3) The date of his confinement awaiting trial on that charge following a mistrial, order for a new trial, remand for a new trial upon that charge, or notice of appeal for trial de novo.

(b) A defendant commences his period of awaiting trial on a charge on the latest of the following:

- (1) In misdemeanor cases, the date that the criminal pleading is served upon the defendant, and in felony cases, the later of the service of criminal process or the return of a bill of indictment; or
- (2) The date of a mistrial, order for a new trial, remand for a new trial upon that charge, or notice of appeal for trial de novo.

(c) The charge for which a person is awaiting trial includes the charge upon which he is to be tried and any other charge with which it may be joined under the provisions of G.S. 15A-926.

"§ 15A-706. *Excluded periods.*—(a) The period of awaiting trial or confinement awaiting trial does not include periods of delay resulting from other proceedings concerning the defendant, from the absence or unavailability of the defendant, or from the defendant's incapacity to proceed.

(b) The period of confinement awaiting trial does not include periods during which the defendant is released under Article 26 of this Chapter, Bail.

“Article 36.

“Special Criminal Process for Attendance of Defendants.

“§ 15A-711. *Securing Attendance of Criminal defendants confined in institutions within the State; requiring solicitor to proceed.*—(a) When a criminal defendant is confined in a penal or other institution under the control of the State or any of its subdivisions and his presence is required for trial, the solicitor may make written request to the custodian of the institution for temporary release of the defendant to the custody of an appropriate law enforcement officer who must produce him at the trial. The period of the temporary release may not exceed 60 days. The request of the solicitor is sufficient authorization for the release, and must be honored, except as otherwise provided in this section.

(b) If the defendant whose presence is sought is confined pursuant to another criminal proceeding in a different judicial district, the defendant and the solicitor prosecuting the other criminal action must be given reasonable notice and opportunity to object to the temporary release. Objections must be heard by a superior court judge having authority to act in criminal cases in the district in which the defendant is confined, and he must make appropriate orders as to the precedence of the actions.

(c) A defendant who is confined in an institution in this State pursuant to a criminal proceeding and who has other criminal charges pending against him may, by written request filed with the clerk of the court where the other charges are pending, require the solicitor prosecuting such charges to proceed pursuant to this section. A copy of the request must be served upon the solicitor in the manner provided by the Rules of Civil Procedure, G.S. 1A-1, Rule 5(b). If the solicitor does not proceed pursuant to subsection (a) within six months from the date the request is filed with the clerk, the charges must be dismissed.

(d) Detainer.

(1) When a criminal defendant is imprisoned in this State pursuant to prior criminal proceedings, the clerk upon request of the solicitor, must transmit to the custodian of the institution in which he is imprisoned, a copy of the charges filed against the defendant and a detainer directing that the prisoner be held to answer to the charges made against him. The detainer must contain a notice of the prisoner's right to proceed pursuant to G.S. 15A-711 (c) and his right to a speedy trial pursuant to Article 35 of this Chapter, Speedy Trial.

(2) Upon receipt of the charges and the detainer, the custodian must immediately inform the prisoner of its receipt and furnish him copies of the charges and the detainer, must explain to him his right to proceed pursuant to G.S. 15A-711(c) and his right to a speedy trial under Article 35 of this Chapter, Speedy Trial.

(3) The custodian must notify the clerk who transmitted the detainer of the defendant's impending release at least 30 days prior to the date of release. The notice must be given immediately if the detainer is received less than 30 days prior to the date of release. The clerk must direct the sheriff to take custody of the defendant and produce him for trial. The custodian must release the defendant to the custody of the sheriff, but

may not hold the defendant in confinement beyond the date on which he is eligible for release.

(4) A detainer may be withdrawn upon request of the solicitor, and the clerk must notify the custodian, who must notify the defendant.

“Article 37.

“Uniform Criminal Extradition Act.

“Article 38.

“Interstate Agreement on Detainers.

“Article 39.

“Other Special Process for Attendance of Defendants.

“§ 15A-771. *Securing attendance of defendants confined in federal prisons.*—

(a) A defendant against whom a criminal action is pending in this State, and who is confined in a federal prison or custody either within or outside the State, may, with the consent of the Attorney General of the United States, be produced in such court for the purpose of criminal prosecution, pursuant to the provisions of:

- (1) Section 4085 of Title 18 of the United States Code; or
- (2) Subsection (b) of this section.

(b) When such a defendant is in federal custody as specified in subsection (a), a superior court, may, upon application of the solicitor, issue a certificate, addressed to the Attorney General of the United States, certifying the charges and the court in which they are pending, and that attendance of the defendant in such court for the purpose of criminal prosecution thereon is necessary in the interest of justice, and requesting the Attorney General of the United States to cause such defendant to be produced in such court, under custody of a federal public servant, upon a designated date and for a period of time necessary to complete the prosecution. Upon issuing such a certificate, the court may deliver it, or cause or authorize it to be delivered, together with a certified copy of the charges upon which it is based, to the Attorney General of the United States or to his representative authorized to entertain the request.

“§ 15A-772. *Securing attendance of defendants who are outside the United States.*—(a) When a criminal action for an offense committed in this State is pending in a criminal court of this State against a defendant who is in a foreign country with which the United States has an extradition treaty, and when the offense charged is one which is declared in such treaty to be an extraditable one, the solicitor may make an application to the Governor, requesting him to make an application to the President of the United States to institute extradition proceedings for the return of the defendant to this country and State for the purpose of prosecution of such action. The solicitor's application must comply with rules, regulations, and guidelines established by the Governor for such applications and must be accompanied by all the charges, affidavits, and other documents required thereby.

(b) Upon receipt of the solicitor's application, the Governor, if satisfied that the defendant is in the foreign country in question, that the offense charged is an extraditable one pursuant to the treaty in question, and that there are no factors or impediments which in law preclude such an extradition, may in his discretion make an application, addressed to the Secretary of State of the United States, requesting that the President of the United States institute extradition proceedings for the return of the defendant from such foreign country. The Governor's application must comply with applicable treaties and Acts of

Congress and with rules, regulations, and guidelines established by the Secretary of State for such applications and must be accompanied by all the charges, affidavits, and other documents required thereby.

(c) The provisions of this section apply equally to extradition or attempted extradition of a person who is a fugitive following the entry of a judgment of conviction against him in a criminal court of this State.

“§ 15A-773. *Corporate defendants; securing attendance; appearance.*—(a) The court attendance of a corporation for purposes of commencing or prosecuting a criminal action against it may be accomplished by the issuance and service of a criminal summons. The criminal summons must be directed to the corporation, and must be served upon the corporation by delivery thereof to an officer, director, managing or general agent, cashier or assistant cashier of such corporation, or to any other agent of such corporation authorized by appointment or by law to receive service of process.

(b) At all stages of a criminal action, a corporate defendant may appear by counsel or agent having authority to transact the business of the corporation.

“Articles 40 and 41.

(Reserved for future codification)

“Subchapter 8.

“Attendance of Witnesses; Depositions.

“Article 42.

“Attendance of Witnesses Generally.

“§ 15A-801. *Subpoena for witness.* The presence of a person as a witness in a criminal proceeding may be obtained by subpoena, which must be issued and served in the manner provided in Rule 45 of the Rules of Civil Procedure, G.S. 1-1A.

“§ 15A-802. *Subpoena for the production of documentary evidence.*—The production of records, books, papers, documents, or tangible things in a criminal proceeding may be obtained by subpoena which must be issued and served in the manner provided in Rule 45 of the Rules of Civil Procedure, G.S. 1-1A.

“§ 15A-803. *Attendance of witnesses.*—(a) *Material Witness Order Authorized.* A judge may issue an order assuring the attendance of a material witness at a criminal proceeding. This material witness order may be issued when there are reasonable grounds to believe that the person whom the State or a defendant desires to call as a witness in a pending criminal proceeding possesses information material to the determination of the proceeding and may not be amenable or responsive to a subpoena at a time when his attendance will be sought.

(b) *When Order Issued.* A material witness order may be issued by a judge of superior court at any time after the initiation of criminal proceedings. A judge of district court may issue a material witness order only at the time that a defendant is bound over to superior court at a probable cause hearing.

(c) *How Long Effective.* A material witness order remains in effect during the period indicated in the order by the issuing judge unless it is sooner modified or vacated by a judge of superior court. In no event may a material witness order which provides for incarceration of the material witness be issued for a period longer than 20 days, but upon review a superior court judge in his discretion may renew an order one or more times for periods not to exceed five days each.

(d) *Procedure.* A material witness order may be obtained upon motion supported by affidavit showing cause for its issuance. The witness must be given

reasonable notice, opportunity to be heard and present evidence, and the right of representation by counsel at a hearing on the motion. Counsel for a material witness may be appointed and compensated in the same manner as counsel for an indigent defendant. The order must be based on findings of fact supporting its issuance.

(e) Order. If the court makes a material witness order:

(1) It may direct release of the witness in the same manner that a defendant may be released under G.S. 15A-534.

(2) It may direct the detention of the witness.

(f) Modification or Vacation. A material witness order may be modified or vacated by a judge of superior court upon a showing of new or changed facts or circumstances by the witness, the State, or any defendant.

(g) Securing Attendance or Custody of Material Witness. The witness may be required to attend the hearing by subpoena, or if the court considers it necessary, by order for arrest. An order for arrest also may be issued if it becomes necessary to take the witness into custody after issuance of a material witness order.

“§ 15A-804. *Voluntary protective custody.*—(a) Upon request of a witness, a judge of superior court may determine whether he is a material witness, and may order his protective custody. The order may provide for confinement, custody in other than a penal institution, release to the custody of a law enforcement officer or other person, or other provisions appropriate to the circumstances.

(b) A person having custody of the witness may not release him without his consent unless directed to do so by a superior court judge, or unless the order so provides.

(c) The issuance of either a material witness order or an order for voluntary protective custody does not preclude the issuance of the other order.

(d) An order for voluntary protective custody may be modified or vacated as appropriate by a superior court judge upon the request of the witness or upon the court's own motion.

“§ 15A-805. *Securing attendance of witnesses confined in institutions within the State.*—(a) Upon motion of the State or any defendant, the judge of a court in which a criminal proceeding is pending must, for good cause shown, enter an order requiring that any person confined in an institution in this State be produced and compelled to attend as a witness in the action or proceeding.

(b) If the witness is confined pursuant to another pending criminal proceeding, and the judge determines that the production of the witness would result in an unreasonable interference with the conduct of the prior proceeding, he may deny the order. If an order for production is issued, a judge or justice of the Appellate Division of the General Court of Justice may, upon application of a defendant or solicitor in the other district for good cause shown, vacate the order for production.

(c) The costs of production of the witness are assessed as are other witness fees.

“Article 43.

“Uniform Act to Secure Attendance of Witnesses from Without a State in Criminal Proceedings.

“Article 44.

“Securing Attendance of Prisoners as Witnesses.

“§ 15A-821. *Securing attendance of prisoner in this State as witness in proceeding outside the State.*—(a) If a judge of a court of general jurisdiction in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this State, certifies under the seal of that court that there is a criminal prosecution pending in the court or that a grand jury investigation has commenced, and that a person confined in an institution under the control of the State Department of Correction of North Carolina, other than a person confined as criminally insane, is a material witness in the prosecution or investigation and that his presence is required for a specified number of days, upon presentment of the certificate to a superior court judge in the judicial district where the person is confined, upon notice to the Attorney General, the judge must fix a time and place for a hearing and order the person having custody of the prisoner to produce him at the hearing.

(b) If at the hearing the judge determines that the prisoner is a material and necessary witness in the requesting state, the judge must order that the prisoner attend in the court where the prosecution or investigation is pending, upon such terms and conditions as the judge prescribes, including among other things, provision for the return of the prisoner at the conclusion of his testimony, proper safeguard for his custody, and proper financial reimbursement or other payment, including payment in advance, by the demanding jurisdiction for all expenses incurred in the production and return of the prisoner.

(c) The Attorney General may, as agent for the State of North Carolina, enter into such agreements with the demanding jurisdiction as necessary to ensure proper compliance with the order of the court.

“§ 15A-822. *Securing attendance of prisoner outside the State as witness in criminal action or proceeding in the State.*—(a) When

- (1) A criminal action or proceeding is pending in a court of this State, and
- (2) There is reasonable cause to believe that a person confined in a correctional institution or prison of another state, other than a person confined as mentally ill, possesses information material to such criminal action or proceeding, and
- (3) The attendance of the person as a witness in such proceeding is desired by a party thereto, and
- (4) The State in which such person is confined possesses a statute equivalent to G.S. 15A-821, the court in which such proceeding is pending may issue a certificate under the seal of the court, certifying all such facts and certifying that the attendance of the person as a witness in such court is required for a specified number of days.

(b) The certificate may be issued upon application of either the State or a defendant setting forth the facts specified in subsection (a).

(c) Upon issuing such a certificate, the court may cause it to be delivered to a court of such other state which is authorized to initiate or undertake action for the delivery of such prisoners to this State as witnesses.

“§ 15A-823. *Securing attendance of prisoner in federal institution as witness in criminal action in the State.*—(a) When

- (1) A criminal proceeding is pending in a court of this State; and
- (2) There is reasonable cause to believe that a person confined in a federal

prison or other federal custody, either within or outside this State, possesses information material to such criminal proceeding; and

- (3) His attendance as a witness in such action or proceeding is desired by a party thereto, the court may issue a certificate, known as a writ of habeas corpus ad testificandum, addressed to the Attorney General of the United States certifying all such facts and requesting the Attorney General of the United States to cause the attendance of such person as a witness in such court for a specified number of days under custody of a federal public servant.

(b) The certificate may be issued upon application of either the State or a defendant, setting forth the facts specified in subsection (a).

(c) Upon issuing the certificate, the court may cause it to be delivered to the Attorney General of the United States or to his representative authorized to entertain the request.

“Article 45.

“Depositions.

(Reserved for future codification)

“Articles 46 and 47.

(Reserved for future codification)

“Subchapter 9.

“Pretrial Procedure.

“Article 48.

“Discovery in the Superior Court.

“§ 15A-901. *Application of Article.*—This Article applies to cases within the original jurisdiction of the superior court.

“§ 15A-902. *Discovery procedure.*—(a) A party seeking discovery under this Article must, before filing any motion before a judge, request in writing that the other party comply voluntarily with the discovery request. Upon receiving a negative or unsatisfactory response, or upon the passage of seven days following the receipt of the request without response, the party requesting discovery may file a motion for discovery under the provisions of this Article concerning any matter as to which voluntary discovery was not made pursuant to request.

(b) To the extent that discovery authorized in this Article is voluntarily made in response to a request, the discovery is deemed to have been made under an order of the court for the purposes of this Article.

(c) A motion for discovery under this Article must be heard before a superior court judge.

(d) If a defendant is represented by counsel, he may as a matter of right request voluntary discovery from the State under subsection (a) above not later than the tenth working day after either the probable cause hearing or the date he waives the hearing. If a defendant is not represented by counsel, or is indicted or consents to the filing of a bill of information before he has been afforded or waived a probable cause hearing, he may as a matter of right request voluntary discovery from the State under subsection (a) above not later than the tenth working day after

- (1) the defendant's consent to be tried upon a bill of information, or the service of notice upon him that a true bill of indictment has been found by the grand jury, or

(2) the appointment of counsel—whichever is later.

For the purposes of this subsection a defendant is represented by counsel only if counsel was retained by or appointed for him prior to or during a probable cause hearing or prior to execution by him of a waiver of a probable cause hearing.

(e) The State may as a matter of right request voluntary discovery from the defendant, when authorized under this Article, at any time not later than the tenth working day after disclosure by the State with respect to the category of discovery in question.

(f) A motion for discovery made at any time prior to trial may be entertained if the parties so stipulate or if the judge for good cause shown determines that the motion should be allowed in whole or in part.

“§ 15A-903. *Disclosure of evidence by the State; information subject to disclosure.*—(a) Statement of Defendant. Upon motion of a defendant, the court must order the solicitor:

(1) To permit the defendant to inspect and copy or photograph any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the State the existence of which is known or by the exercise of due diligence may become known to the solicitor; and

(2) To divulge, in written or recorded form, the substance of any oral statement made by the defendant which the State intends to offer in evidence at the trial.

(b) Statement of a co-defendant. Upon motion of a defendant, the court must order the solicitor:

(1) To permit the defendant to inspect and copy or photograph any written or recorded statement of a co-defendant which the State intends to offer in evidence at their joint trial; and

(2) To divulge, in written or recorded form, the substance of any oral statement made by a co-defendant which the State intends to offer in evidence at their joint trial.

(c) Defendant's Prior Record. Upon motion of the defendant, the court must order the State to furnish to the defendant a copy of his prior criminal record, if any, as is available to the solicitor.

(d) Documents and Tangible Objects. Upon motion of the defendant, the court must order the solicitor to permit the defendant to inspect and copy or photograph books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or copies or portions thereof which are within the possession, custody, or control of the State and which are material to the preparation of his defense, are intended for use by the State as evidence at the trial, or were obtained from or belong to the defendant.

(e) Reports of Examinations and Tests. Upon motion of a defendant, the court must order the solicitor to provide a copy of or to permit the defendant to inspect and copy or photograph results or reports of physical or mental examinations or of tests, measurements or experiments made in connection with the case, or copies thereof, within the possession, custody, or control of the State, the existence of which is known or by the exercise of due diligence may become known to the solicitor. In addition, upon motion of a defendant, the court must order the solicitor to permit the defendant to inspect, examine, and test, subject to appropriate safeguards, any physical evidence, or a sample of it, available to

the solicitor if the State intends to offer the evidence, or tests or experiments made in connection with the evidence, as an exhibit or evidence in the case.

“§ 15A-904. *Disclosure of evidence by the State; certain reports not subject to disclosure.*—(a) Except as provided in G.S. 15A-903(a), (b), (c) and (e), this Article does not require the production of reports, memoranda, or other internal documents made by the solicitor, law enforcement officers, or other persons acting on behalf of the State in connection with the investigation or prosecution of the case, or of statements made by witnesses or prospective witnesses of the State to anyone acting on behalf of the State.

(b) Nothing in this section prohibits a solicitor from making voluntary disclosures in the interests of justice.

“§ 15A-905. *Disclosure of evidence by the defendant; information subject to disclosure.*—(a) Documents and Tangible Objects. If the court grants any relief sought by the defendant under G.S. 15A-903(d), the court must, upon motion of the State, order the defendant to permit the State to inspect and copy or photograph books, papers, documents, photographs, motion pictures, mechanical or electronic recordings, tangible objects, or copies or portions thereof which are within the possession, custody, or control of the defendant and which the defendant intends to introduce in evidence at the trial.

(b) Reports of Examinations and Tests. If the court grants any relief sought by the defendant under G.S. 15A-903(e), the court must, upon motion of the State, order the defendant to permit the State to inspect and copy or photograph results or reports of physical or mental examinations or of tests, measurements or experiments made in connection with the case, or copies thereof, within the possession and control of the defendant which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial, when the results or reports relate to his testimony. In addition, upon motion of a solicitor, the court must order the defendant to permit the solicitor to inspect, examine, and test, subject to appropriate safeguards, any physical evidence or a sample of it available to the defendant if the defendant intends to offer such evidence, or tests or experiments made in connection with such evidence, as an exhibit or evidence in the case.

“§ 15A-906. *Disclosure of evidence by the defendant; certain evidence not subject to disclosure.*—Except as provided in G.S. 15A-905(b) this Article does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant or his attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by prosecution or defense witnesses, or by prospective prosecution witnesses or defense witnesses, to the defendant, his agents, or attorneys.

“§ 15A-907. *Continuing duty to disclose.*—If a party, subject to compliance with an order issued pursuant to this Article, discovers prior to or during trial additional evidence or decides to use additional evidence, and the evidence is or may be subject to discovery or inspection under this Article, he must promptly notify the attorney for the other party of the existence of the additional evidence or the name of each additional witness.

“§ 15A-908. *Regulation of discovery; protective orders.*—(a) Upon written motion of a party and a finding of good cause, the court may at any time order that discovery or inspection be denied, restricted, or deferred, or may make other appropriate orders.

(b) The court may permit a party seeking relief under subsection (a) to submit supporting affidavits or statements to the court for in camera inspection. If thereafter the court enters an order granting relief under subsection (a), the material submitted in camera must be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

“§ 15A-909. *Regulation of discovery; time, place, and manner of discovery and inspection.*—An order of the court granting relief under this Article must specify the time, place, and manner of making the discovery and inspection permitted and may prescribe appropriate terms and conditions.

“§ 15A-910. *Regulation of discovery; failure to comply.*—(a) If at any time during the course of the proceedings the court determines that a party has failed to comply with this Article or with an order issued pursuant to this Article, the court in addition to exercising its contempt powers may

- (1) Order the party to permit the discovery or inspection, or
- (2) Grant a continuance or recess, or
- (3) Prohibit the party from introducing evidence not disclosed, or
- (4) Enter other appropriate orders.

(b) If a party calls a witness other than a rebuttal witness without first having given notice to the other party of the name of the witness as required in this Article, upon motion of the aggrieved party, the court must either:

- (1) Prohibit the party from eliciting testimony from the witness, or
- (2) Recess the case for such time as the court deems necessary for the aggrieved party to prepare to cross-examine the witness effectively, or
- (3) Subject to the provisions of subsection (c), grant a mistrial.

(c) The court may grant a mistrial as provided in subsection (b)(3) above only with the consent of the defendant or upon his motion. Otherwise, the granting of the mistrial is in the discretion of the court under applicable rules of law.

“Article 49.

“Pleadings and Joinder.

“§ 15A-921. *Pleadings in criminal cases.*—Subject to the provisions of this Article, the following may serve as pleadings of the State in criminal cases:

- (1) Citation.
- (2) Criminal summons.
- (3) Warrant for arrest.
- (4) Magistrate’s order pursuant to G.S. 15A-511(c) after arrest without warrant.
- (5) Statement of charges.
- (6) Information.
- (7) Indictment.

“§ 15A-922. *Use of pleadings in misdemeanor cases.*—(a) Process as Pleadings. The citation, criminal summons, warrant for arrest, or magistrate’s order serves as the pleading of the State for a misdemeanor prosecuted in the district court, unless the solicitor files a statement of charges, or there is objection to trial on a citation. When a statement of charges is filed it supersedes all previous pleadings of the State and constitutes the pleading of the State.

(b) Statement of Charges.

- (1) A statement of charges is a criminal pleading which charges a misdemeanor. It must be signed by the solicitor who files it.
- (2) Upon appropriate motion, a defendant is entitled to a period of at least three working days for the preparation of his defense after a statement of charges is filed, or the time the defendant is first notified of the statement of charges, whichever is later, unless the judge finds that the statement of charges makes no material change in the pleadings and that no additional time is necessary.
- (3) If the judge rules that the pleadings charging a misdemeanor are insufficient and a solicitor is permitted to file a statement of charges pursuant to subsection (e), the order of the judge must allow the solicitor three working days, unless the judge determines that a longer period is justified, in which to file the statement of charges, and must provide that the charges will be dismissed if the statement of charges is not filed within the period allowed.

(c) Objection to Trial on Citation. A defendant charged in a citation with a criminal offense may by appropriate motion require that the offense be charged in a new pleading. The solicitor must then file a statement of charges unless it appears that a criminal summons or a warrant for arrest should be secured in order to insure the attendance of the defendant, and in addition serve as the new pleading.

(d) Statement of Charges upon Determination of Solicitor. The solicitor may file a statement of charges upon his own determination at any time prior to arraignment in the district court. It may charge the same offenses as the citation, criminal summons, warrant for arrest, or magistrate's order or additional or different offenses.

(e) Objection to Sufficiency of Criminal Summons; Warrant for Arrest or Magistrate's Order as Pleading. If the defendant by appropriate motion objects to the sufficiency of a criminal summons, warrant for arrest, or magistrate's order as a pleading, at the time of or after arraignment in the district court or upon trial *de novo* in the superior court, and the judge rules that the pleading is insufficient, the solicitor may file a statement of charges, but a statement of charges filed pursuant to this authorization may not change the nature of the offense.

(f) Amendment of Pleadings Prior To or After Final Judgment. A statement of charges, criminal summons, warrant for arrest, or magistrate's order may be amended at any time prior to or after final judgment when the amendment does not change the nature of the offense charged.

(g) Pleadings When Misdemeanor Prosecution Initiated in Superior Court. When the prosecution of a misdemeanor is initiated in the superior court as permitted by G.S. 7A-271, the prosecution must be upon information or indictment.

(h) Allegations in Superior Court of Prior Convictions. When charges in the district court involve allegations or prior convictions and there is an appeal to the superior court for trial *de novo*, a statement of charges must be filed in the superior court to charge the offense in the manner provided in G.S. 15A-928.

“§ 15A-923. *Use of pleadings in felony cases and misdemeanor cases initiated in the superior court division.*—(a) Prosecution on Information or Indictment. The pleading in felony cases and misdemeanor cases initiated in the superior

court division must be a bill of indictment, unless there is a waiver of the bill of indictment as provided in G.S. 15A-642. If there is a waiver, the pleading must be an information. A presentment by the grand jury may not serve as the pleading in a criminal case.

(b) Form of Information or Indictment. An information and a bill of indictment charge the crime or crimes in the same manner. An information has entered upon it or attached to it the defendant's written waiver of a bill of indictment. The bill of indictment has entered upon it the finding of the grand jury that it is a true bill.

(c) Waiver of Indictment. The defendant may waive a bill of indictment as provided in G.S. 15A-642.

(d) Amendment of Information. An information may be amended only with the consent of the defendant.

(e) No Amendment of Indictment. A bill of indictment may not be amended.

“§ 15A-924. *Contents of pleadings.*—(a) A criminal pleading must contain:

- (1) The name or other identification of the defendant but the name of the defendant need not be repeated in each count unless required for clarity.
- (2) A separate count addressed to each offense charged, but allegations in one count may be incorporated by reference in another count.
- (3) A statement or cross reference in each count indicating that the offense charged therein was committed in a designated county.
- (4) A statement or cross reference in each count indicating that the offense charged was committed on, or on or about, a designated date, or during a designated period of time. Error as to a date or its omission is not ground for dismissal of the charges or for reversal of a conviction if time was not of the essence with respect to the charge and the error or omission did not mislead the defendant to his prejudice.
- (5) A plain and concise factual statement in each count which, without allegations of an evidentiary nature, asserts facts supporting every element of a criminal offense and the defendant's commission thereof with sufficient precision clearly to apprise the defendant or defendants of the conduct which is the subject of the accusation. When the pleading is a criminal summons, warrant for arrest, or magistrate's order, or statement of charges based thereon, both the statement of the crime and any information showing probable cause which was considered by the judicial official and which has been furnished to the defendant must be used in determining whether the pleading is sufficient to meet the foregoing requirement.
- (6) For each count a citation of any applicable statute, rule, regulation, ordinance, or other provision of law alleged therein to have been violated. Error in the citation or its omission is not ground for dismissal of the charges or for reversal of a conviction.

(b) If any count of an indictment or information charges more than one offense, the defendant may by timely filing of a motion require the State to elect and state a single offense alleged in the count upon which the State will proceed to trial. A count may be dismissed for duplicity if the State fails to make timely election.

(c) In trials in superior court, allegations of previous convictions are subject to the provisions of G.S. 15A-928.

(d) In alleging and proving a prior conviction, it is sufficient to state that the defendant was at a certain time and place convicted of the previous offense, without otherwise fully alleging all the elements. A duly certified transcript of the record of a prior conviction is, upon proof of the identity of the person of the defendant, sufficient evidence of a prior conviction. If the surname of a defendant charged is identical to the surname of a defendant previously convicted and there is identity with respect to one given name, or two initials, or two initials corresponding with the first letters of given names, between the two defendants, and there is no evidence that would indicate the two defendants are not one and the same, the identity of name is prima facie evidence that the two defendants are the same person.

(e) Upon motion of a defendant under G.S. 15A-952(b) the court must dismiss the charges contained in a pleading which fails to charge the defendant with a crime in the manner required by subsection (a), unless the failure is with regard to a matter as to which an amendment is allowable.

(f) Upon motion of a defendant under G.S. 15A-952(b) the court may strike inflammatory or prejudicial surplusage from the pleading.

“§ 15A-925. *Bill of particulars.*—(a) Upon motion of a defendant under G.S. 15A-952, the court in which a charge is pending may order the State to file a bill of particulars with the court and to serve a copy upon the defendant.

(b) A motion for a bill of particulars must request and specify items of factual information desired by the defendant which pertain to the charge and which are not recited in the pleading, and must allege that the defendant cannot adequately prepare or conduct his defense without such information.

(c) If any or all of the items of information requested are necessary to enable the defendant adequately to prepare or conduct his defense, the court must order the State to file and serve a bill of particulars. Nothing contained in this section authorizes an order for a bill of particulars which requires the State to recite matters of evidence.

(d) The bill of particulars must be filed with the court and must recite every item of information required in the order. A copy must be served upon the defendant, or his attorney. The proceedings are stayed pending the filing and service.

(e) A bill of particulars may not supply an omission or cure a defect in a criminal pleading. The evidence of the State, as to those matters within the scope of the motion, is limited to the items set out in the bill of particulars. The court may permit amendment of a bill of particulars at any time prior to trial.

“§ 15A-926. *Joinder of offenses and defendants.*—(a) Joinder of Offenses. Two or more offenses may be joined in one pleading when the offenses, whether felonies or misdemeanors or both, are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan. Each offense must be stated in a separate count as required by G.S. 15A-924.

(b) Separate Pleadings for each Defendant and Joinder of Defendants for Trial.

(1) Each defendant must be charged in a separate pleading.

(2) Upon written motion of the solicitor, charges against two or more defendants may be joined for trial:

a. When each of the defendants is charged with accountability for each offense; or

- b. When, even if all of the defendants are not charged with accountability for each offense, the several offenses charged:
  - 1. Were part of a common scheme or plan; or
  - 2. Were part of the same act or transaction; or
  - 3. Were so closely connected in time, place, and occasion that it would be difficult to separate proof of one charge from proof of the others.

(c) Failure to Join Related Offenses.

- (1) When a defendant has been charged with two or more offenses joinable under subsection (a) his timely motion to join them for trial must be granted unless the court determines that because the solicitor does not have sufficient evidence to warrant trying some of the offenses at that time or if, for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to make this motion constitutes a waiver of any right of joinder of offenses joinable under subsection (a) with which the defendant knew he was charged.
- (2) A defendant who has been tried for one offense may thereafter move to dismiss a charge of a joinable offense. The motion to dismiss must be made prior to the second trial, and must be granted unless
  - a. a motion for joinder of these offenses was previously denied, or
  - b. the court finds that the right of joinder has been waived, or
  - c. the court finds that because the solicitor did not have sufficient evidence to warrant trying this offense at the time of the first trial, or because of some other reason, the ends of justice would be defeated if the motion were granted.
- (3) The right to joinder under this subsection is not applicable when the defendant has pleaded guilty or no contest to the previous charge.

“§ 15A-927. *Severance of offenses; objection to joinder of defendants for trial.*—(a) Timeliness of Motion; Waiver; Double Jeopardy.

- (1) A defendant's motion for severance of offenses must be made before trial as provided in G.S. 15A-952, except as provided in G.S. 15A-953, and except that a motion for severance may be made before or at the close of the State's evidence if based upon a ground not previously known. Any right to severance is waived if the motion is not made at the appropriate time.
- (2) If a defendant's pretrial motion for severance is overruled, he may renew the motion on the same grounds before or at the close of all the evidence. Any right to severance is waived by failure to renew the motion.
- (3) Unless consented to by the defendant, a motion by the solicitor for severance of offenses may be granted only prior to trial.
- (4) If a motion for severance of offenses is granted during the trial, a motion by the defendant for a mistrial must be granted.
- (b) Severance of Offenses. The court, on motion of the solicitor or on motion of the defendant, must grant a severance of offenses whenever:
  - (1) If before trial, it is found necessary to promote a fair determination of the defendant's guilt or innocence of each offense; or
  - (2) If during trial, upon motion of the defendant or motion of the solicitor with the consent of the defendant, it is found necessary to achieve a fair determination of the defendant's guilt or innocence of each offense. The court must consider whether, in view of the number of offenses charged

and the complexity of the evidence to be offered, the trier of fact will be able to distinguish the evidence and apply the law intelligently as to each offense.

(c) Objection to Joinder of Charges Against Multiple Defendants for Trial; Severance.

- (1) When a defendant objects to joinder of charges against two or more defendants for trial because an out-of-court statement of a co-defendant makes reference to him but is not admissible against him, the court must require the solicitor to select one of the following courses:
  - a. A joint trial at which the statement is not admitted into evidence; or
  - b. A joint trial at which the statement is admitted into evidence only after all references to the moving defendant have been effectively deleted so that the statement will not prejudice him; or
  - c. A separate trial of the objecting defendant.
- (2) The court, on motion of the solicitor, or on motion of the defendant other than under subdivision (1) above must deny a joinder for trial or grant a severance of defendants whenever:
  - a. If before trial, it is found necessary to protect a defendant's right to a speedy trial, or it is found necessary to promote a fair determination of the guilt or innocence of one or more defendants; or
  - b. If during trial, upon motion of the defendant whose trial is to be severed, or motion of the solicitor with the consent of the defendant whose trial is to be severed, it is found necessary to achieve a fair determination of the guilt or innocence of that defendant.
- (3) The court may order the solicitor to disclose, out of the presence of the jurors, any statements made by the defendants which he intends to introduce in evidence at the trial when that information would assist the court in ruling on an objection to joinder of defendants for trial or a motion for severance of defendants.

(d) Failure to Prove Grounds for Joinder of Defendants for Trial. If a defendant moves for severance at the conclusion of the State's case or of all the evidence, and there is not sufficient evidence to support the allegation upon which the moving defendant was joined for trial with the other defendant or defendants, the court must grant a severance if, in view of this lack of evidence, severance is found necessary to achieve a fair determination of that defendant's guilt or innocence.

(e) Severance on Motion of Court. The court may order a severance of offenses before trial or deny the joinder of defendants for trial if a severance or denial of joinder could be obtained on motion of a defendant or the solicitor.

“§ 15A-928. *Allegations of previous convictions prohibited.*—(a) When the fact that the defendant has been previously convicted of an offense raises an offense of lower grade to one of higher grade and thereby becomes an element of the latter, an indictment or information for the higher offense may not allege the previous conviction. If a reference to a previous conviction is contained in the statutory name or title of the offense, the name or title may not be used in the indictment or information, but an improvised name or title must be used which labels and distinguishes the offense without reference to a previous conviction.

(b) An indictment or information for the offense must be accompanied by a special indictment or information, filed with the principal pleading, charging

that the defendant was previously convicted of a specified offense. At the solicitor's option, the special indictment or information may be incorporated in the principal indictment as a separate count. Except as provided in subsection (c) below, the State may not refer to the special indictment or information during the trial nor adduce any evidence concerning the previous conviction alleged therein.

(c) After commencement of the trial and before the close of the State's case, the judge in the absence of the jury must arraign the defendant upon the special indictment or information, and must advise him that he may admit the previous conviction alleged, deny it, or remain silent. Depending upon the defendant's response, the trial of the case must then proceed as follows:

- (1) If the defendant admits the previous conviction, that element of the offense charged in the indictment or information is established, no evidence in support thereof may be adduced by the State, and the judge must submit the case to the jury without reference thereto and as if the fact of such previous conviction were not an element of the offense. The court may not submit to the jury any lesser included offense which is distinguished from the offense charged solely by the fact that a previous conviction is not an element thereof.
- (2) If the defendant denies the previous conviction or remains silent, the State may prove that element of the offense charged before the jury as a part of its case. This section applies only to proof of a prior conviction when it is an element of the crime charged, and does not prohibit the State from introducing proof of prior convictions when otherwise permitted under the rules of evidence.

(d) When a misdemeanor is tried *de novo* in superior court in which the fact of a previous conviction is an element of the offense affecting punishment, the State must replace the pleading in the case with superseding statements of charges separately alleging the substantive offense and the fact of any prior conviction, in accordance with the provisions of this section relating to indictments and informations. Any jury trial in superior court on the misdemeanor must be held in accordance with the provisions of subsections (b) and (c).

(e) Nothing contained in this section precludes the State from proving a prior conviction before a grand jury or relieves the State from the obligation or necessity of so doing in order to submit a legally sufficient case.

“Article 50.

“Voluntary Dismissal.

“§ 15A-931. *Voluntary dismissal of criminal charges by the State.*—(a) The solicitor may dismiss any charges stated in a criminal pleading by entering an oral dismissal in open court before or during the trial, or by filing a written dismissal with the clerk at any time. The clerk must record the dismissal entered by the solicitor and note in the case file whether a jury has been impaneled or evidence has been introduced.

(b) No statute of limitations is tolled by charges which have been dismissed pursuant to this section.

“Article 51.

“Arraignment.

“§ 15A-941. *Arraignment before judge.*—Arraignment consists of bringing a defendant in open court before a judge having jurisdiction to try the offense,

advising him of the charges pending against him, and directing him to plead. The solicitor must read the charges or fairly summarize them to the defendant. If the defendant fails to plead, the court must record that fact, and the defendant must be tried as if he had pleaded not guilty.

“§ 15A-942. *Right to counsel.*—If the defendant appears at the arraignment without counsel, the court must inform the defendant of his right to counsel, must accord the defendant opportunity to exercise that right, and must take any action necessary to effectuate the right.

“§ 15A-943. *Arraignment in superior court; required calendaring.*—(a) In counties in which there are regularly scheduled 20 or more weeks of trial sessions of superior court at which criminal cases are heard, and in other counties the Chief Justice designates, the solicitor must calendar arraignments in the superior court on at least the first day of every other week in which criminal cases are heard. No cases in which the presence of a jury is required may be calendared for the day or portion of a day during which arraignments are calendared.

(b) When a defendant pleads not guilty at an arraignment required by subsection (a), he may not be tried without his consent in the week in which he is arraigned.

“§ 15A-944. *Arraignment in superior court; optional calendaring.*—In counties other than those described in G.S. 15A-943 the solicitor may, but is not required to, calendar arraignments in the manner described in that section.

“§ 15A-945. *Waiver of arraignment.*—A defendant who is represented by counsel and who wishes to plead not guilty may waive arraignment prior to the day for which arraignment is calendared by filing a written plea, signed by the defendant and his counsel.

“Article 52.

“Motions Practice.

“§ 15A-951. *Motions in general; definition, service, and filing.*—(a) A motion must:

- (1) Unless made during a hearing or trial, be in writing;
- (2) State the grounds of the motion; and
- (3) Set forth the relief or order sought.

(b) Each written motion must be served upon the attorney of record for the opposing party or upon the defendant if he is not represented by counsel. Service upon the attorney or upon a party may be made by delivering a copy of the motion to him or by mailing it to him at his address of record. Delivery of a copy within the meaning of this Article means handing it to the attorney or to the party or leaving it at the attorney's office with an associate or employee. Service by mail is complete upon deposit of the motion enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the Postal Service of the United States.

(c) All written motions must be filed with the court. Proof of service must be made by filing with the court a certificate:

- (1) By the solicitor, attorney, or defendant making the motion that the paper was served in the manner prescribed; or
- (2) Of acceptance of service by the solicitor, attorney, or defendant to be served.

The certificate must show the date and method of service or the date of acceptance of service.

“§ 15A-952. *Pretrial motions; time for filing, sanction for failure to file, motion hearing date.*—(a) Any defense, objection, or request which is capable of being determined without the trial of the general issue may be raised before trial by motion.

(b) Except as provided in subsection (d), when the following motions are made in superior court they must be made within the time limitations stated in subsection (c) unless the court permits filing at a later time:

- (1) Motions to continue.
- (2) Motions for a change of venue under G.S. 15A-957.
- (3) Motions for a special venire under G.S. 9-12 or G.S. 15A-958.
- (4) Motions to dismiss under G.S. 15A-955.
- (5) Motions to dismiss for improper venue.
- (6) Motions addressed to the pleadings, including:
  - a. Motions to dismiss for failure to plead under G.S. 15A-924(e).
  - b. Motions to strike under G.S. 15A-924(f).
  - c. Motions for bills of particulars under G.S. 15A-924(b) or G.S. 15A-925.
  - d. Motions for severance of offenses, to the extent required by G.S. 15A-927.
  - e. Motions for joinder of related offenses under G.S. 15A-926(c).

(c) Unless otherwise provided, the motions listed in subsection (b) must be made at or before the time of arraignment if arraignment is held prior to the session of court for which the trial is calendared. If arraignment is to be held at the session for which trial is calendared, the motions must be filed on or before five o'clock p.m. on the Wednesday prior to the session when trial of the case begins.

(d) Motions concerning jurisdiction of the court or the failure of the pleading to charge an offense may be made at any time.

(e) Failure to file the motions in subsection (b) within the time required constitutes a waiver of the motion. The court may grant relief from any waiver except failure to move to dismiss for improper venue.

(f) When a motion is made before trial, the court in its discretion may hear the motion before trial, on the date set for arraignment, on the date set for trial before a jury is impaneled, or during trial.

“§ 15A-953. *Motions practice in district court.*—In misdemeanor prosecutions in the district court motions should ordinarily be made upon arraignment or during the course of trial, as appropriate. A written motion may be made prior to trial in district court. With the consent of other parties and the district court judge, a motion may be heard before trial. Upon trial de novo in superior court, motions are subject to the provisions of G.S. 15A-952, and except as provided in G.S. 15A-135, no motion in superior court is prejudiced by any ruling upon, or a failure to make timely motion on, the subject in district court.

“§ 15A-954. *Motion to dismiss; grounds applicable to all criminal pleadings; dismissal of proceedings upon death of defendant.*—(a) The court on motion of the defendant must dismiss the charges stated in a criminal pleading if it determines that:

- (1) The statute alleged to have been violated is unconstitutional on its face or as applied to the defendant.

- (2) The statute of limitations has run.
- (3) The defendant has been denied a speedy trial as required by the Constitution of the United States and the Constitution of North Carolina.
- (4) The defendant's constitutional rights have been flagrantly violated and there is such irreparable prejudice to the defendant's preparation of his case that there is no remedy but to dismiss the prosecution.
- (5) The defendant has previously been placed in jeopardy of the same offense.
- (6) The defendant has previously been charged with the same offense in another North Carolina court of competent jurisdiction, and the criminal pleading charging the offense is still pending and valid.
- (7) An issue of fact or law essential to a successful prosecution has been previously adjudicated in favor of the defendant in a prior action between the parties.
- (8) The court has no jurisdiction of the offense charged.
- (9) The defendant has been granted immunity by law from prosecution.
- (10) The pleading fails to charge an offense as provided in G.S. 15A-924(e).

(b) Upon suggestion to the court that the defendant has died, the court upon determining that the defendant is dead must dismiss the charges.

(c) A motion to dismiss for the reasons set out in subsection (a) may be made at anytime.

"§ 15A-955. *Motion to dismiss; grounds applicable to indictments.*—The court on motion of the defendant may dismiss an indictment if it determines that:

- (1) There is ground for a challenge to the array,
- (2) The requisite number of qualified grand jurors did not concur in finding the indictment, or
- (3) All of the witnesses before the grand jury on the bill of indictment were incompetent to testify.

"§ 15A-956. *Deferral of ruling on motion to dismiss when charge to be reinstated.*—If a motion to dismiss is made at arraignment or trial, upon motion of the solicitor the court may recess the proceedings for a period of time requested by the solicitor, not to exceed 24 hours, prior to ruling upon the motion.

"§ 15A-957. *Motion for change of venue.*—If, upon motion of the defendant, the court determines that there exists in the county in which the prosecution is pending so great a prejudice against the defendant that he cannot obtain a fair and impartial trial, the court must either:

- (1) Transfer the proceeding to another county in the judicial district or to another county in an adjoining judicial district, or
- (2) Order a special venire under the terms of G.S. 15A-958.

The procedure for change of venue is in accordance with the provisions of Article 3 of this Chapter, Venue.

"§ 15A-958. *Motion for a special venire from another county.*—Upon motion of the defendant or the State, or on its own motion, a court may issue an order for a special venire of jurors from another county if in its discretion it determines the action to be necessary to insure a fair trial. The procedure for securing this special venire is governed by G.S. 9-12.

“§ 15A-959. *Notice of defense of insanity.*—(a) If a defendant intends to raise the defense of insanity, he must within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of his intention to rely on the defense of insanity. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other appropriate orders.

(b) If a defendant intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the mental state required for the offense charged, he must within the time provided for the filing of pretrial motions under G.S. 15A-952(b) file a notice of that intention. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other appropriate orders.

“Article 53.

“Motion to Suppress Evidence.

“§ 15A-971. *Definitions.*—As used in this Article the following definitions apply unless the context clearly requires otherwise:

(1) Evidence. When referring to matter in the possession of or available to a solicitor, any tangible property or potential testimony which may be offered in evidence in a criminal action.

(2) Potential Testimony. Information or factual knowledge of a person who is or may be available as a witness.

“§ 15A-972. *Motion to suppress evidence before trial in superior court in general.*—When an indictment has been returned or an information has been filed in the superior court, or a defendant has been bound over for trial in superior court, a defendant who is aggrieved may move to suppress evidence in accordance with the terms of this Article.

“§ 15A-973. *Motion to suppress evidence in district court.*—In misdemeanor prosecutions in the district court, motions to suppress evidence should ordinarily be made during the course of the trial. A motion to suppress may be made prior to trial. With the consent of the solicitor and the district court judge, the motion may be heard prior to trial.

“§ 15A-974. *Exclusion or suppression of unlawfully obtained evidence.*—Upon timely motion, evidence must be suppressed if:

(1) Its exclusion is required by the Constitution of the United States or the Constitution of the State of North Carolina; or

(2) It is obtained as a result of a substantial violation of the provisions of this Chapter. In determining whether a violation is substantial, the court must consider all the circumstances, including:

- a. The importance of the particular interest violated;
- b. The extent of the deviation from lawful conduct;
- c. The extent to which the violation was wilful;
- d. The extent to which exclusion will tend to deter future violations of this Chapter.

“§ 15A-975. *Motion to suppress evidence in superior court prior to trial and during trial.*—(a) In superior court, the defendant may move to suppress evidence only prior to trial unless the defendant did not have reasonable opportunity to make the motion before trial or unless a motion to suppress is allowed during trial under subsection (b) or (c).

(b) A motion to suppress may be made for the first time during trial when the State has failed to notify the defendant's counsel or, if he has none, the defendant, sooner than 20 working days before trial, of its intention to use the evidence, and the evidence is:

- (1) Evidence of a statement made by a defendant.
- (2) Evidence obtained by virtue of a search without a search warrant; or
- (3) Evidence obtained as a result of search with a search warrant when the defendant was not present at the time of the execution of the search warrant.

(c) If, after a pretrial determination and denial of the motion, the judge is satisfied, upon a showing by the defendant, that additional pertinent facts have been discovered by the defendant which he could not have discovered with reasonable diligence before the determination of the motion, he may permit the defendant to renew the motion before the trial or, if not possible because of the time of discovery of alleged new facts, during trial.

When a misdemeanor is appealed by the defendant for trial *de novo* in superior court, the State need not give the notice required by this section.

“§ 15A-976. *Timing of pretrial suppression motion and hearing.*—(a) A motion to suppress evidence in superior court may be made at any time prior to trial except as provided in subsection (b).

(b) If the State gives notice not later than 20 working days before trial of its intention to use evidence and if the evidence is of a type listed in G.S. 15A-975 (b), the defendant may move to suppress the evidence only if its motion is made not later than 10 working days following receipt of the notice from the State.

(c) When the motion is made before trial, the judge in his discretion may hear the motion before trial, on the date set for arraignment, on the date set for trial before a jury is impaneled, or during trial. He may rule on the motion before trial or reserve judgment until trial.

“§ 15A-977. *Motion to suppress evidence in superior court; procedure.*—(a) A motion to suppress evidence in superior court made before trial must be in writing and a copy of the motion must be served upon the State. The motion must state the grounds upon which it is made. The motion must be accompanied by an affidavit containing facts supporting the motion. The affidavit may be based upon personal knowledge, or upon information and belief, if the source of the information and the basis for the belief are stated. The State may file an answer denying or admitting any of the allegations. A copy of the answer must be served on the defendant's counsel, or on the defendant if he has no counsel.

(b) The judge must summarily grant the motion to suppress evidence if:

- (1) The motion complies with the requirements of subsection (a), it states grounds which require exclusion of the evidence, and the State concedes the truth of allegations of fact which support the motion; or
- (2) The State stipulates that the evidence sought to be suppressed will not be offered in evidence in any criminal action or proceeding against the defendant.

(c) The judge may summarily deny the motion to suppress evidence if:

- (1) The motion does not allege a legal basis for the motion; or
- (2) The affidavit does not as a matter of law support the ground alleged.

(d) If the motion is not determined summarily the judge must make the determination after a hearing and finding of facts. Testimony at the hearing must be under oath.

(e) A motion to suppress made during trial may be made in writing or orally and may be determined in the same manner as when made before trial. The hearing, if held, must be out of the presence of the jury.

(f) The judge must set forth in the record his findings of facts and conclusions of law.

“§ 15A-978. *Motion to suppress evidence in superior court or district court; challenge of probable cause supporting search on grounds of truthfulness; when identity of informant must be disclosed.*—(a) A defendant may contest the validity of a search warrant and the admissibility of evidence obtained thereunder by contesting the truthfulness of the testimony showing probable cause for its issuance. The defendant may contest the truthfulness of the testimony by cross-examination or by offering evidence. For the purposes of this section, truthful testimony is testimony which reports in good faith the circumstances relied on to establish probable cause.

(b) In any proceeding on a motion to suppress evidence pursuant to this section in which the truthfulness of the testimony presented to establish probable cause is contested and the testimony includes a report of information furnished by an informant whose identity is not disclosed in the testimony, the defendant is entitled to be informed of the informant’s identity unless:

- (1) The evidence sought to be suppressed was seized by authority of a search warrant or incident to an arrest with warrant; or
- (2) There is corroboration of the informant’s existence independent of the testimony in question.

The provisions of subdivisions (b)(1) and (b)(2) do not apply to situations in which disclosure of an informant’s identity is required by controlling constitutional decisions.

(c) This section does not limit the right of a defendant to contest the truthfulness of testimony offered in support of a search made without a warrant.

“§ 15A-979. *Motion to suppress evidence in superior and district court; orders of suppression; effects of orders and of failure to make motion.*—(a) Upon granting a motion to suppress evidence the judge must order that the evidence in question be excluded in the criminal action pending against the defendant. When the order is based upon the ground of an unlawful search and seizure and excludes tangible property unlawfully taken from the defendant’s possession, and when the property is not contraband or otherwise subject to lawful retention by the State or another, the judge must order that the property be restored to the defendant at the conclusion of the trial including all appeals.

(b) An order finally denying a motion to suppress evidence may be reviewed upon an appeal from a judgment of conviction, including a judgment entered upon a plea of guilty.

(c) An order by the superior court granting a motion to suppress prior to trial is appealable to the Appellate Division of the General Court of Justice prior to trial upon certificate by the solicitor to the judge who granted the motion that the appeal is not taken for the purpose of delay and that the evidence is essential to the case.

(d) A motion to suppress evidence made pursuant to this Article is the exclusive method of challenging the admissibility of evidence upon the grounds specified in G.S. 15A-974.

“Articles 54 and 55.

(Reserved for future codification)

“Subchapter 10.

“Trial.

“Article 56.

“Incapacity to Proceed.

“§ 15A-1001. *No proceedings when defendant mentally incapacitated; exception.*—(a) No person may be tried, convicted, sentenced, or punished for a crime when by reason of mental illness or defect he is unable to understand the nature and object of the proceedings against him, to comprehend his own situation in reference to the proceedings, or to assist in his defense in a rational or reasonable manner. This condition is hereinafter referred to as ‘incapacity to proceed’.

(b) This section does not prevent the court from going forward with any motions which can be handled by counsel without the assistance of the defendant.

“§ 15A-1002. *Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.*—(a) The question of the capacity of the defendant to proceed may be raised at any time by the solicitor, the defendant, the defense counsel, or the court on its own motion.

(b) When the capacity of the defendant to proceed is questioned, the court:

(1) May appoint one or more impartial medical experts to examine the defendant and return a written report describing the present state of the defendant’s mental health. Reports so prepared are admissible at the hearing and the court may call any expert so appointed to testify at the hearing. In addition, any expert so appointed may be called to testify at the hearing by the court at the request of either party.

(2) May commit the defendant to a State mental health facility for observation and treatment for the period necessary to determine the defendant’s capacity to proceed. In no event may the period exceed 60 days. The superintendent of the facility must direct his report on defendant’s condition to the defense attorney and to the clerk of superior court, who must bring it to the attention of the court. The report is admissible at the hearing.

a. If the report indicates that the defendant lacks capacity to proceed, proceedings for judicial hospitalization may be instituted on the basis of the report in either the county where the criminal proceedings are pending or in the county in which the defendant is hospitalized.

b. If the report indicates that the defendant has capacity to proceed, the clerk must direct the sheriff to return him to the county.

(3) Must hold a hearing to determine the defendant’s capacity to proceed. If examination is ordered pursuant to subdivision (1) or (2), the hearing must be held after the examination. Reasonable notice must be given to the defendant and to the solicitor and the State and the defendant may introduce evidence.

(c) The court may make appropriate temporary orders for the confinement or security of the defendant pending the hearing or ruling of the court on the question of the capacity of the defendant to proceed.

“§ 15A-1003. *Referral of incapable defendant for civil commitment proceedings.*—(a) If a defendant is found to be incapable of proceeding, the court must enter an order directing the initiation of proceedings for judicial

hospitalization, and the court's order is a sufficient basis for the initiation of those proceedings.

(b) The court may make appropriate orders for the temporary detention of the defendant pending that proceeding.

(c) Evidence used at the hearing with regard to capacity to proceed is admissible in the judicial hospitalization proceedings.

“§ 15A-1004. *Orders for safeguarding of defendant and return for trial.*—(a) When a defendant is found to be incapable of proceeding, the trial court must make appropriate orders to safeguard the defendant and to ensure his return for trial in the event that he subsequently becomes capable of proceeding.

(b) If the defendant is not placed in the custody of a hospital or other institution in a proceeding for judicial hospitalization, appropriate orders may include any of the procedures, orders, and conditions provided in Article 26 of this Chapter, Bail, specifically including the power to place the defendant in the custody of a designated person or organization agreeing to supervise him.

(c) If the defendant is placed in the custody of a hospital or other institution in a proceeding for judicial hospitalization, the orders must provide for reporting to the clerk if the defendant is to be released from the custody of the hospital or institution. The original or supplemental orders may make provisions as in subsection (b) in the event that the defendant is released.

(d) If the defendant is placed in the custody of a hospital or institution pursuant to proceedings for judicial hospitalization, or if the defendant is placed in the custody of another person pursuant to subsection (b), the orders of the trial court must require that the hospital, institution, or individual report the condition of the defendant to the clerk annually, or more frequently if the court requires, and immediately if the defendant gains capacity to proceed. The order must also require the report to state the likelihood of the defendant's gaining capacity to proceed, to the extent that the hospital, institution, or individual is capable of making such a judgment.

(e) The orders must require and provide for the return of the defendant to stand trial in the event that he gains capacity to proceed, unless the charges have been dismissed, and may also provide for the confinement or pretrial release of the defendant in that event.

(f) The orders of the court may be amended or supplemented from time to time as changed conditions require.

“§ 15A-1005. *Reporting to court with regard to defendants incapable of proceeding.*—The clerk of the court in which the criminal proceeding is pending must keep a docket of defendants who have been determined to be incapable of proceeding. The clerk must submit the docket to the senior resident superior court judge in his district at least semi-annually.

“§ 15A-1006. *Return of defendant for trial upon gaining capacity.*—If a defendant who has been determined to be incapable of proceeding, and who is in the custody of an institution or an individual, gains capacity to proceed, the individual or institution must notify the clerk in the county in which the criminal proceeding is pending. The clerk must notify the sheriff to return the defendant to the county for trial, and to hold him for trial, subject to the orders of the court entered pursuant to G.S. 15A-1004.

“§ 15A-1007. *Supplemental hearings.*—(a) When it has been reported to the court that a defendant has gained capacity to proceed, or when the defendant has been determined by the individual or institution having custody of him to have

gained capacity and has been returned for trial, the court may hold a supplemental hearing to determine whether the defendant has capacity to proceed. The court may take any action at the supplemental hearing that it could have taken at an original hearing to determine the capacity of the defendant to proceed.

(b) The court may hold a supplemental hearing any time upon its own determination that a hearing is appropriate or necessary to inquire into the condition of the defendant.

(c) The court must hold a supplemental hearing if it appears that any of the conditions for dismissal of the charges have been met.

“§ 15A-1008. *Dismissal of charges.*—When a defendant lacks capacity to proceed, the court may dismiss the charges:

(1) When it appears to the satisfaction of the court that the defendant will not gain capacity to proceed; or

(2) When the defendant has been substantially deprived of his liberty for a period of time equal to or in excess of the maximum permissible period of confinement for the crime or crimes charged; or

(3) Upon the expiration of a period of five years from the date of determination of incapacity to proceed in the case of misdemeanor charges and a period of 10 years in the case of felony charges.

“Article 57.

“Pleas.

“§ 15A-1011. *Pleas.*—(a) A defendant may plead not guilty, guilty, or no contest ‘(*nolo contendere*)’. A plea may be received only from the defendant himself in open court except when:

(1) The defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer; or

(2) There is a waiver of arraignment and a filing of a written plea of not guilty under G.S. 15A-945; or

(3) In misdemeanor cases there is a written waiver of appearance submitted with the approval of the presiding judge; or

(4) Written pleas in traffic cases are authorized under G.S. 7A-146(8); or

(5) The defendant executes a waiver and plea of not guilty as provided in G.S. 15A-1011(d).

(b) A defendant may plead no contest only with the consent of the solicitor and the presiding judge.

(c) Upon entry of a plea of guilty or no contest or after conviction on a plea of not guilty, the defendant may request permission to enter a plea of guilty or no contest as to other crimes with which he is charged in the same or another judicial district. A defendant may not enter any plea to crimes charged in another judicial district unless the district solicitor of that district consents in writing to the entry of such plea. The solicitor or his representative may appear in person or by filing an affidavit as to the nature of the evidence gathered as to these other crimes. Entry of a plea under this subsection constitutes a waiver of venue. A superior court is granted jurisdiction to accept the plea, upon an appropriate indictment or information, even though the case may otherwise be within the exclusive original jurisdiction of the district court. A district court may accept pleas under this section only in cases within the original jurisdiction of the district court.

(d) A defendant may execute a written waiver of appearance and plead not guilty and designate legal counsel to appear in his behalf in the following circumstances:

- (1) The defendant agrees in writing to waive the right to testify in person and waives the right to face his accusers in person and agrees to be bound by the decision of the court as in any other case of adjudication of guilty and entry of judgment, subject to the right of appeal as in any other case; and
- (2) The defendant submits in writing circumstances to justify the request and submits in writing a request to proceed under this section; and
- (3) The judge allows the absence of the defendant because of distance, infirmity or other good cause.

(e) In the event the judge shall permit the procedure set forth in the foregoing subsection (d), the State may offer evidence and the defendant may offer evidence, with right of cross examination of witnesses, and the other procedures, including the right of the solicitor to dismiss the charges, shall be the same as in any other criminal case, except for the absence of defendant.

“§ 15A-1012. *Pleas; aid of counsel; time for deliberation.*—(a) A defendant may not be called upon to plead until he has had an opportunity to retain counsel or, if he is eligible for assignment of counsel, until counsel has been assigned or waived in accordance with Article 36 of Chapter 7A of the General Statutes.

(b) In cases in the original jurisdiction of the superior court a defendant who has waived counsel may not plead within less than seven days following the date he was arrested or was otherwise informed of the charge.

“Article 58.

“Procedures Relating to Guilty Pleas in Superior Court.

“§ 15A-1021. *Plea conference; improper pressure prohibited; submission of arrangement to judge.*—(a) In superior court, the prosecution and the defense may discuss the possibility that, upon the defendant’s entry of a plea of guilty or no contest to one or more offenses, the solicitor will not charge, will dismiss, or will move for the dismissal of other charges, or will recommend or not oppose a particular sentence. If the defendant is represented by counsel in the discussions the defendant need not be present. The trial judge may not participate in the discussions.

(b) No person representing the State or any of its political subdivisions may bring improper pressure upon a defendant to induce a plea of guilty or no contest.

(c) If the parties have reached a proposed plea arrangement in which the solicitor has agreed to recommend a particular sentence, they may, with the permission of the trial judge, advise the judge of the terms of the arrangement and the reasons therefor in advance of the time for tender of the plea. The judge may indicate to the parties whether he will concur in the proposed disposition. The judge may withdraw his concurrence if he learns of information not consistent with the representations made to him.

“§ 15A-1022. *Advising defendant of consequences of guilty plea; informed choice; factual basis for plea; admission of guilt not required.*—(a) Except in the case of corporations or in misdemeanor cases in which there is a waiver of appearance under G.S. 15A-1011(a)(3), a superior court judge may not accept a

plea of guilty or no contest from the defendant without first addressing him personally and:

- (1) Informing him that he has a right to remain silent and that any statement he makes may be used against him;
- (2) Determining that he understands the nature of the charge;
- (3) Informing him that he has a right to plead not guilty;
- (4) Informing him that by his plea he waives his right to trial by jury and his right to be confronted by the witnesses against him;
- (5) Determining that the defendant, if represented by counsel, is satisfied with his representation; and
- (6) Informing him of the maximum possible sentence on the charge, including that possible from consecutive sentences, and of the mandatory minimum sentence, if any, on the charge.

(b) By inquiring of the solicitor and defense counsel and the defendant personally, the judge must determine whether there were any prior plea discussions, whether the parties have entered into any arrangement with respect to the plea and the terms thereof, and whether any improper pressure was exerted in violation of G.S. 15A-1021(b). The judge may not accept a plea of guilty or no contest from a defendant without first determining that the plea is a product of informed choice.

(c) The judge may not accept a plea of guilty or no contest without first determining that there is a factual basis for the plea. This determination may be based upon information including but not limited to:

- (1) A statement of the facts by the solicitor.
- (2) A written statement of the defendant.
- (3) An examination of the presentence report.
- (4) Sworn testimony, which may include reliable hearsay.
- (5) A statement of facts by the defense counsel.

(d) The judge may accept the defendant's plea of no contest even though the defendant does not admit that he is in fact guilty if the judge is nevertheless satisfied that there is a factual basis for the plea. The judge must advise the defendant that if he pleads no contest he will be treated as guilty whether or not he admits guilt.

“§ 15A-1023. *Action by judge in plea arrangements relating to sentence; no approval required when arrangement does not relate to sentence.*—(a) If the parties have agreed upon a plea arrangement pursuant to G.S. 15A-1021 in which the solicitor has agreed to recommend a particular sentence, they must disclose the substance of their agreement to the judge at the time the defendant is called upon to plead.

(b) Before accepting a plea pursuant to a plea arrangement in which the solicitor has agreed to recommend a particular sentence, the judge must advise the parties whether he approves the arrangement and will dispose of the case accordingly. If the judge rejects the arrangement, he must so inform the parties, refuse to accept the defendant's plea of guilty or no contest, and advise the defendant personally that neither the State nor the defendant is bound by the rejected arrangement. The judge must advise the parties of the reasons he rejected the arrangement and afford them an opportunity to modify the arrangement accordingly. A decision by the judge disapproving a plea arrangement is not subject to appeal.

(c) If the parties have entered a plea arrangement relating to the disposition of charges in which the solicitor has not agreed to make any recommendations concerning sentence, the substance of the arrangement must be disclosed to the judge at the time the defendant is called upon to plead. The judge must accept the plea if he determines that the plea is the product of the informed choice of the defendant and that there is a factual basis for the plea.

“§ 15A-1024. *Withdrawal of guilty plea when sentence not in accord with plea arrangement.*—If at the time of sentencing, the judge for any reason determines to impose a sentence other than provided for in a plea arrangement between the parties, the judge must inform the defendant of that fact and inform the defendant that he may withdraw his plea. Upon withdrawal, the defendant is entitled to a continuance until the next session of court.

“§ 15A-1025. *Plea discussion and arrangement inadmissible.*—The fact that the defendant or his counsel and the solicitor engaged in plea discussions or made a plea arrangement may not be received in evidence against or in favor of the defendant in any criminal or civil action or administrative proceedings.

“§ 15A-1026. *Record of proceedings.*—A verbatim record of the proceedings at which the defendant enters a plea of guilty or no contest and of any preliminary consideration of a plea arrangement by the judge pursuant to G.S. 15A-1021(c) must be made and transcribed. This record must include the judge's advice to the defendant, and his inquiries of the defendant, defense counsel, and the solicitor, and any responses. If the plea arrangement has been reduced to writing, it must be made a part of the record; otherwise the judge must require that the terms of the arrangement be stated for the record and that the assent of the defendant, his counsel, and the solicitor be recorded.

“§ 15A-1027. *Limitation on collateral attack on conviction.*—Noncompliance with the procedures of this Article may not be a basis for review of a conviction after the appeal period for the conviction has expired, unless the review is required expressly authorized by G. S. 15-217.

“Articles 59 and 60.

(Reserved for future codification)

“Article 61.

“Granting of Immunity to Witnesses.

“§ 15A-1051. *Immunity; general provisions.*—(a) A witness who asserts his privilege against self-incrimination in a hearing or proceeding in court or before a grand jury of North Carolina may be ordered to testify or produce other information as provided in this Article. He may not thereafter be excused from testifying or producing other information on the ground that his testimony or other information required of him may tend to incriminate him. No such witness may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled under these provisions to testify or to produce information, nor may testimony or other information so compelled, nor any information or evidence derived therefrom, be used against the witness in any criminal case, except a prosecution for perjury or any other offense arising from a failure to comply with such order.

(b) An order to testify or produce other information authorized by this Article may be issued prior to the witness's assertion of his privilege against self-incrimination, but the order is not effective until the witness asserts his privilege against self-incrimination and the person presiding over the inquiry communicates the order to him.

(c) As used in this Article, 'other information' includes any book, paper, document, record, recordation, tangible object, or other material.

"§ 15A-1052. *Grant of immunity in court proceedings.*—(a) When the testimony or other information is to be presented to a court of the trial division of the General Court of Justice, the order to the witness to testify or produce other information must be issued by a superior court judge, upon application of the district solicitor:

- (1) Be in writing and filed with the permanent records of the case; or
- (2) If orally made in open court, recorded and transcribed and made a part of the permanent records of the case.

(b) The application may be made whenever, in the judgment of the district solicitor, the witness has asserted or is likely to assert his privilege against self-incrimination and his testimony or other information is or will be necessary to the public interest. Before making application to the judge, the district solicitor must inform the Attorney General, or a Deputy or Assistant Attorney General designated by him, of the circumstances and his intent to make an application.

(c) In a jury trial the judge must inform the jury of the grant of immunity and the order to testify prior to the testimony of the witness under the grant of immunity. During the charge to the jury, the judge must instruct the jury as in the case of interested witnesses.

"§ 15A-1053. *Grant of immunity before grand jury.*—(a) When the testimony or other information is to be presented to a grand jury, the order to the witness to testify or produce other information must be issued by the presiding or convening superior court judge, upon application of the district solicitor. The order of a superior court judge under this section must be in writing and filed as a part of the permanent records of the court.

(b) The application may be made when the district solicitor has been informed by the foreman of the grand jury that the witness has asserted his privilege against self-incrimination and the district solicitor determines that the testimony or other information is necessary to the public interest. Before making application to the judge, the district solicitor must inform the Attorney General, or a Deputy or Assistant Attorney General designated by him, of the circumstances and his intent to make an application.

"§ 15A-1054. *Charge reductions or sentence concessions in consideration of truthful testimony.*—(a) Whether or not a grant of immunity is conferred under this Article, a solicitor, when the interest of justice requires, may exercise his discretion not to try any suspect for offenses believed to have been committed within the judicial district, to agree to charge reductions, or to agree to recommend sentence concessions, upon the understanding or agreement that the suspect will provide truthful testimony in one or more criminal proceedings.

(b) Recommendations as to sentence concessions must be made to the trial judge by the solicitor in accordance with the provisions of Article 58 of this Chapter, Procedure Relating to Guilty Pleas in Superior Court.

(c) When a solicitor enters into any arrangement authorized by this section, written notice fully disclosing the terms of the arrangement must be provided to defense counsel, or to the defendant if not represented by counsel, against whom such testimony is to be offered, a reasonable time prior to any proceeding in which the person with whom the arrangement is made is expected to testify. Upon motion of the defendant or his counsel on grounds of surprise or for other good cause or when the interests of justice require, the court must grant a recess.

“§ 15A-1055. *Evidence of grant of immunity or testimonial arrangement may be fully developed; impact may be argued to the jury.*—(a) Notwithstanding any other rule of evidence to the contrary, any party may examine a witness testifying under a grant of immunity or pursuant to an arrangement under G.S. 15A-1054 with respect to that grant of immunity or arrangement. A party may also introduce evidence or examine other witnesses in corroboration or contradiction of testimony or evidence previously elicited by himself or another party concerning the grant of immunity or arrangement.

(b) A party may argue to the jury with respect to the impact of a grant of immunity or an arrangement under G.S. 15A-1054 upon the credibility of a witness.”

**Sec. 2.** G.S. 5-1 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is amended to add a new subdivision (9) to read as follows:

“(9) Refusal to testify or produce other information upon the order of a judge acting pursuant to Article 61 of Chapter 15A, Granting of Immunity to Witnesses. Nothing in this subdivision is intended to prevent a proceeding under G.S. 5-8 if there is a continuing need for the testimony or other information.”

**Sec. 3.** G.S. 5-4 as the same appears in the 1969 Replacement Volume 1B of the General Statutes is amended to delete the period at the end of the section and add the following:

“, except that the punishment for refusal in violation of G.S. 5-1(9) is a fine not to exceed five hundred dollars (\$500.00), imprisonment not to exceed six months, or both, in the discretion of the court.”

**Sec. 4.** G.S. 5-8 is amended by renumbering subdivision (7) as subdivision “(8)”, and by inserting the following new subdivision (7):

“(7) Any person served with a criminal summons directing him to appear to answer to criminal charges, who wilfully fails to appear as directed.”

**Sec. 5.** Chapter 7A of the General Statutes is hereby amended by inserting therein a new section, G.S. 7A-109.1 to read as follows:

“§ 7A-109.1. *List of jailed defendants furnished to judges.*—(a) The clerk of superior court must furnish to each judge presiding over a criminal court a report listing the name, reason for confinement, period of confinement, and, when appropriate, charge or charges, amount of bail and conditions of release, and next scheduled court appearance of each person listed on the most recent report filed under the provisions of G.S. 153-53.8.

(b) The clerk must file the report with superior court judges presiding over mixed or criminal sessions at the beginning of each session and must file the report with district court judges at each session or weekly, whichever is the less frequent.”

**Sec. 6.** G.S. 7A-180(6) as the same appears in the 1969 Replacement Volume 1B of the General Statutes is amended by inserting in the second line thereof after the words, “set bail,” the words “to conduct an initial appearance,”.

**Sec. 7.** G.S. 7A-273 is hereby amended by adding a new subdivision (7) to read as follows:

“(7) To conduct an initial appearance as provided in G.S. 15A-511.”

**Sec. 8.** Article 36 of Chapter 7A of the General Statutes is amended as follows:

(1) G.S. 7A-452 is amended by inserting a new subsection to read:

“(c) (1) The clerk of superior court is authorized to make a determination of indigency and to appoint counsel, as authorized by this Article. The word ‘court’, as it is used in this Article and in any rules pursuant to this Article, includes the clerk of superior court.

(2) A judge of superior or district court having authority to appoint counsel in a particular case may give directions to the clerk with regard to the appointment of counsel in that case; may, if he finds it appropriate, change or modify the appointment of counsel when counsel has been appointed by the clerk; and may set aside a finding of waiver of counsel made by the clerk.”

(2) G.S. 7A-453(b), as the same appears in 1969 Replacement Volume 1B, is hereby amended by striking out the last three sentences thereof.

(3) G.S. 7A-453(c), as the same appears in 1969 Replacement Volume 1B, is hereby amended by striking out the word “section” at the end and inserting in lieu thereof the word “Article”.

**Sec. 9.** Article 9 of Chapter 8, “Attendance of witnesses from without the State”, is hereby reenacted and recodified as Article 43 of Chapter 15A, G.S. 15A-811 through 15A-817.

**Sec. 10.** Chapter 14 of the General Statutes is hereby amended by adding the following new section G.S. 14-43.1:

“§ 14-43.1. *Unlawful arrest by officers from other states.*—A law enforcement officer of a state other than North Carolina who, knowing that he is in the State of North Carolina and purporting to act by authority of his office, arrests a person in the State of North Carolina, other than as is permitted by G.S. 15A-403, is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment for not more than six months, or both.”

**Sec. 11.** (a) Chapter 14 of the General Statutes is amended by inserting therein the following new section G.S. 14-277.1:

“§ 14-277.1. *Communicating threats.*—(a) A person is guilty of a misdemeanor if without lawful authority:

(1) He wilfully threatens to physically injure the person or damage the property of another;

(2) The threat is communicated to the other person, orally, in writing, or by any other means;

(3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and

(4) The person threatened believes that the threat will be carried out.

(b) A violation of this section is punishable by a fine of not more than five hundred dollars (\$500.00), imprisonment of not more than six months, or both.”

(b) Article 5 of Chapter 15 of the General Statutes, “Peace Warrants”, is repealed.

(c) G.S. 7A-291(5) is amended by striking out the words “peace and”.

(d) G.S. 8-57 is amended by inserting immediately after the words, “assault upon the other spouse,” the words, “all criminal prosecutions of a spouse for communicating a threat to the other spouse,”.

(e) G.S. 8-58 is hereby repealed.

**Sec. 12.** G.S. Chapter 15 is amended by inserting therein a new Article, Article 17A, to read as follows:

“Article 17A.

“Informing Jury in Case Involving Death Penalty.

“§ 15-176.3. *Informing and questioning potential jurors on consequences of guilty verdict.*—When a jury is being selected for a case in which the defendant is indicted for a crime for which the penalty is a sentence of death, the court, the defense, or the State may inform any person called to serve as a potential juror that the death penalty will be imposed upon the return of a verdict of guilty of that crime and may inquire of any person called to serve as a potential juror whether that person understands the consequences of a verdict of guilty of that crime.

“§ 15-176.4. *Instruction to jury on consequence of guilty verdict.*—When a defendant is indicted for a crime for which the penalty is a sentence of death, the court, upon request by either party, shall instruct the jury that the death penalty will be imposed upon the return of a verdict of guilty of that crime.

“§ 15-176.5. *Argument to jury on consequences of guilty verdict.*—When a case will be submitted to a jury on a charge for which the penalty is a sentence of death, either party in its argument to the jury may indicate the consequences of a verdict of guilty of that charge.”

**Sec. 13.** G.S. 15-179 is amended by striking the first word, “An”, and inserting in lieu thereof the following words, “Except as provided in G.S. 15A-979(c), an”.

**Sec. 14.** G.S. 15-182 is hereby amended by putting a period immediately after the phrase, “without security for costs” and striking out the remainder of the section.

**Sec. 15.** G.S. 15-183 is hereby amended:

- (1) By rewriting the catchline to read: “Custody of convicted persons not released.”,
- (2) By striking out the first paragraph thereof, and
- (3) By striking out of the third line of the second paragraph thereof the words, “pursuant to this section.”.

**Sec. 16.** Article 8 of Chapter 15 of the General Statutes, The Uniform Criminal Extradition Act, is hereby reenacted and recodified as Article 37 of Chapter 15A, G.S. 15A-721 through G.S. 15A-750.

**Sec. 17.** G.S. 113-136(d) is amended by striking out the numbers, “15-41” and inserting in lieu thereof the numbers “15A-401(b)” and by striking out the symbol and numbers “§ 14-224.”.

**Sec. 18.** G.S. 113-139(a) is hereby amended by striking out “Article 4 of Chapter 15” and inserting in lieu thereof, “Article 11 of Chapter 15A”.

**Sec. 19.** The first two paragraphs of G.S. 114-19 are hereby repealed and the section catchline is rewritten to read “*Criminal statistics.*”.

**Sec. 20.** G.S. 122-83, as the same appears in the 1971 Cumulative Supplement to 1964 Replacement Volume 3B of the General Statutes, is hereby amended by striking out of the fourth and fifth lines thereof the words, “by the court before whom they are or may be arraigned for trial”.

**Sec. 21.** G.S. 122-84 is hereby amended by rewriting the second paragraph thereof to read as follows:

“When a person has been determined to be incapable of proceeding as provided in Article 56 of Chapter 15A of the General Statutes and has been

committed to a state hospital, if the hospital authorities feel that an outright discharge or release of said person (in the event he is subsequently tried and found not guilty), would be harmful or dangerous to himself or the public at large involved, and that further care and treatment is necessary, said authorities will when reporting that he is able to proceed, make a request for his return for further care and treatment, in the event he is found not guilty.”

**Sec. 22.** Article 10 of Chapter 148 of the General Statutes, Interstate Agreement on Detainers, codified as G.S. 148-89 through G.S. 148-95, is hereby reenacted and recodified as Article 38 of Chapter 15A, G.S. 15A-761 through G.S. 15A-767.

**Sec. 23.** Chapter 153 of the General Statutes is hereby amended by inserting therein a new section, G.S. 153-53.8, to read as follows:

“§ 153-53.8. *Jailer’s report of jailed defendants.*—A person having administrative control of a local confinement facility each week must file a report with the clerk of court listing the name and period of confinement of each person confined in that facility on Friday noon preceding submission of the report.”

**Sec. 24.** G.S. 160A-286 as it appears in the 1972 Replacement Volume 3D of the General Statutes, is amended by striking out the first sentence of the second paragraph.

**Sec. 25.** When a case will be submitted to a jury on a charge for which the penalty involves the possibility of the loss of a motor vehicle driver’s license, either party in its argument to the jury may indicate the consequences of a verdict of guilty of that charge.

**Sec. 26.** The following sections of the General Statutes are hereby repealed.

G.S.	8-58	15-27.1	15-50	15-102	15-140.1	122-87
	9-22	15-28	15-51	15-103	15-140.2	122-87.1
	9-23	15-29	15-52	15-104	15-141	122-91
	9-24	15-30	15-85	15-105	15-142	
	9-25	15-31	15-86	15-106	15-143	
	9-26	15-32	15-87	15-107	15-147	
	14-224	15-33	15-88	15-108	15-152	
	15-2	15-34	15-89	15-109	15-154	
	15-3	15-35	15-90	15-125	15-155.4	
	15-9	15-36	15-91	15-126	15-155.5	
	15-18	15-37	15-92	15-127	15-156	
	15-19	15-38	15-93	15-128	15-157	
	15-20	15-39	15-94	15-129	15-158	
	15-21	15-40	15-95	15-134	15-159	
	15-22	15-41	15-96	15-135	15-160	
	15-23	15-42	15-97	15-136	15-161	
	15-24	15-44	15-98	15-137	15-162	
	15-25	15-45	15-99	15-138	15-175	
	15-26	15-46	15-100	15-139	15-177	
	15-27	15-47	15-101	15-140	18A-23	

**Sec. 27.** All statutes which refer to sections repealed or amended by this act shall be deemed, insofar as possible, to refer to those provisions of this act which accomplish the same or an equivalent purpose.

**Sec. 28.** None of the provisions of this act providing for the repeal of certain sections of the General Statutes shall constitute a reenactment of the common law.

**Sec. 29.** If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 30.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 31.** This act becomes effective on July 1, 1975, and is applicable to all criminal proceedings begun on and after that date and each provision is applicable to criminal proceedings pending on that date to the extent practicable, except Section 12 of this act which becomes effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

## H. B. 1262                      CHAPTER 1287

### AN ACT TO MAKE TECHNICAL REVISIONS TO CHAPTERS 66 AND 105 OF THE GENERAL STATUTES PERTAINING TO TAXATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of Chapter 66 of the General Statutes is hereby amended by rewriting G.S. 66-20 to read as follows:

“§ 66-20. *Secretary of Revenue may require reports.*—The Secretary of Revenue shall have authority to require a report, at such times as he may determine, from every person, firm or corporation manufacturing candy or similar products, or from the agent of any such manufacturer, of the names and addresses of all consignees, other than licensed merchants, to whom consignment of such merchandise is made.”

**Sec. 2.** The Inheritance Tax Article of The Revenue Act, being Article 1 of Subchapter I of Chapter 105 of the General Statutes, as the same appears in 1972 Replacement Volume 2D thereof, is hereby amended by:

(a) Rewriting subsection (1) of G.S. 105-2 to read as follows:

“(1) When the transfer is by will or by the intestate laws of this State from any person dying seized or possessed of the property while a resident of the State, or when the transfer is made pursuant to a final judgment entered in a proceeding to caveat a will executed by any person dying seized of the property while a resident of this State.”

(b) Deleting from G.S. 105-4(b) the number “21” appearing in lines 2, 3 and 23 thereof, and substituting therefor the number “18” and deleting the word “widows” appearing in line 2 thereof, and substituting therefor the words, “surviving spouse”.

(c) Rewriting the first sentence in G.S. 105-11(a) to read as follows:

“Property taxable within the meaning of this Article shall include bonds or shares of stock in any corporation incorporated or domesticated in this State, regardless of whether or not such corporation shall have any or all of its capital stock invested in property outside of this State, and doing business outside of this State, and the tax on the transfer of any bonds and/or shares of stock in any

such corporation owning property and doing business outside of the State shall be paid before waivers are issued for the transfer of such shares of stock.”

(d) Rewriting G.S. 105-22 in its entirety, to read as follows:

“§ 105-22. *Duties of the clerks of the superior court.*—It shall be the duty of the clerk of the superior court to obtain from any executor or administrator, at the time of the qualification of such executor or administrator, the address of the personal representative qualifying, the names and addresses of the heirs-at-law, legatees, distributees, devisees, etc., as far as practical, the approximate value and character of the property or estate, both real and personal, the relationship of the heirs-at-law, legatees, devisees, etc., to the decedents, and forward the same to the Secretary of Revenue on or before the tenth day of each month. The clerk shall make no report of a death where the estate of a decedent is less than two thousand dollars (\$2,000) in value, when the beneficiary is husband or wife or child or grandchild of the decedent. Any clerk of the superior court who shall fail, neglect, or refuse to file such monthly reports as required by this section shall be liable to a penalty in the sum of one hundred dollars (\$100.00) to be recovered by the Secretary of Revenue in an action to be brought by the Secretary of Revenue.”

(e) Rewriting the second paragraph of G.S. 105-24 to read as follows:

“Notwithstanding any of the provisions of this section, in any case where a bank deposit has been heretofore made or is hereafter made, or where savings and loan stock has heretofore been issued or is hereafter issued, in the names of two or more persons and payable to either or the survivor or survivors of them, such bank or savings and loan association may, upon the death of either of such persons, allow the person or persons entitled thereto under the provisions of G.S. 41-2.1 to withdraw as much as fifty percent (50%) of such deposit or stock, and the balance thereof shall be retained by the bank or savings and loan association to cover any taxes that may thereafter be assessed against such deposit or stock under this Article. When such taxes as may be due on such deposit or stock are paid, or when it is ascertained that there is no liability of such deposit or stock for taxes under this Article, the Secretary of Revenue shall furnish the bank or savings and loan association his written consent for the payment of the retained percentage to the person or persons entitled thereto by law; and the Secretary of Revenue may furnish such written consent to the bank or savings and loan association upon the qualification of a personal representative of the deceased.”

**Sec. 3.** Article 3 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the last sentence of the last paragraph of G.S. 105-114 to read as follows:

“For purposes of this Article, the words ‘income year’ shall mean an income year as defined in G.S. 105-130.2(5).”

(b) Deleting from G.S. 105-116 subsection (d) in its entirety, and redesignating subsections (e), (f) and (g) as (d), (e) and (f), respectively.

(c) Deleting from G.S. 105-119 subsection (d) in its entirety, and redesignating subsection (e) as subsection (d).

(d) Deleting from G.S. 105-120 subsection (c) in its entirety, and redesignating subsections (d), (e) and (f) as subsections (c), (d) and (e), respectively.

(e) Rewriting G.S. 105-122(e) to read as follows:

“(e) Any corporation which changes its income year, and files a ‘short period’ income tax return pursuant to G.S. 105-130.15 shall file a franchise tax return in accordance with the provisions of this section in the manner and as of the date specified in subsection (a) of this section. Such corporation shall be entitled to deduct from the total franchise tax computed (on an annual basis) on such return the amount of franchise tax previously paid which is applicable to the period subsequent to the beginning of the new income year.”

(f) Rewriting the last paragraph of G.S. 105-125 to read as follows:

“Provided, that any corporation doing business in North Carolina which in the opinion of the Secretary of Revenue of North Carolina, qualifies as a ‘regulated investment company’ under the provisions of United States Code Annotated Title 26, § 851, or as a ‘real estate investment trust’ under the provisions of United States Code Annotated Title 26, § 856, and which files with the North Carolina Department of Revenue its election to be treated as a ‘regulated investment company’ or as a ‘real estate investment trust,’ shall in determining its basis for franchise tax be allowed to deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies or governments.”

**Sec. 4.** Division I of Article 4, Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting the words “the effective date of this Division” which follow the word “on” in line 5 of G.S. 105-130.3, as the same appears in 1972 Replacement Volume 2D of the General Statutes, and which precede the word “subject” in line 6 thereof, and substituting therefor the date “January 1, 1974”.

(b) Rewriting G.S. 105-130.4(a)(4) in its entirety to read as follows:

“(4) ‘Excluded corporation’ means any corporation engaged in business as a building or construction contractor, a securities dealer, a loan company or a corporation which receives more than fifty percent (50%) of its ordinary gross income from investments in and/or dealing in intangible property.”

(c) Rewriting G.S. 105-130.4(j)(2) in its entirety to read as follows:

“(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from sub-rentals except that sub-rentals shall not be deducted when they constitute business income. Any property under construction and any property the income from which constitutes nonbusiness income shall be excluded in the computation of the property factor.”

(d) Rewriting G.S. 105-130.5(a)(2) in its entirety to read as follows:

“(2) Interest paid in connection with income exempt from taxation under this division;”

(e) Adding at the end of G.S. 105-130.5(a) a new subdivision (9), to read as follows:

“(9) Payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all inter-company transactions of any kind whatsoever pursuant to the Revenue Laws of this State.”

(f) Rewriting G.S. 105-130.5(b)(2) in its entirety to read as follows:

“(2) Payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in inter-company transactions which in the

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determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State;”

(g) Adding at the end of G.S. 105-130.5 a new subsection (e) to read as follows:

“(e) Notwithstanding any other provision of this section, any recapture of depreciation required under the Internal Revenue Code must be included in a corporation’s State net income to the extent required for federal income tax purposes.”

(h) Rewriting G.S. 105-130.9(1) in its entirety, to read as follows:

“(1) Charitable contributions as defined in Section 170(c) of the Internal Revenue Code, exclusive of contributions allowed in subdivision (2) of this section, shall be allowed as a deduction to the extent provided herein. The amount allowed as a deduction hereunder shall be limited to an amount not in excess of five percent (5%) of the corporation’s net income as computed without the benefit of this subdivision or subdivision (2) of this section. Provided, that a carry-over of contributions shall not be allowed and that contributions made to North Carolina donees by corporations allocating a part of their total net income outside this State shall not be allowed under this subdivision, but shall be allowed under subdivision (3) of this section.”

(i) Rewriting G.S. 105-130.17(b) in its entirety, to read as follows:

“(b) Except as otherwise provided in this section, the return of a corporation shall be filed on or before the fifteenth day of the third month following the close of its income year. An income year ending on any day other than the last day of the month shall be deemed to end on the last day of the calendar month ending nearest to the last day of a taxpayer’s actual income year.”

**Sec. 5.** Division II of Article 4 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Making the following changes in G.S. 105-141:

(1) Inserting in subdivision (3) of subsection (b) immediately following the word “descent” the phrase “except as provided in G.S. 105-142.1.”

(2) Deleting subdivision (5) of subsection (b) in its entirety and substituting in lieu thereof the following:

“(5) Any amounts received as compensation for personal injuries or sickness (i) through accident or health insurance, (ii) through health or accident plans financed by profit-sharing trusts or pension trusts, (iii) under workmen’s compensation acts or similar acts (which have been judicially declared to provide benefits in the nature of workmen’s compensation benefits, by whatever name called), and (iv) for damages (whether by suit or agreement); and any amounts received through self-funded reimbursement plans adopted by an employer for the benefit of his employees, reimbursing them for expenses incurred for their medical care or for the medical care of their spouses or their dependents; provided, that any amounts received from sources mentioned in this subdivision as reimbursement for medical care expenses incurred and claimed as a deduction in a prior year or in prior years shall be excluded only to the extent that such amounts exceed the deduction claimed under subsection (11) of G.S. 105-147, except that nothing in this subdivision shall be construed as preventing a taxpayer from filing an amended return for a taxable year in which a medical deduction was claimed and allowed for the purpose of reducing the amount of the medical expense deduction claimed in such year by any reimbursement for

such medical expenses received in a later year when a change in the prior year is not barred by the provisions of this Division.”

(3) Adding a new subdivision at the end of subsection (b) to be designated as subdivision (19) and to read as follows:

“(19) Amounts earned during the income year by a pension, profit-sharing, stock bonus, or annuity plan established by an employer for the benefit of his employees or for himself and his employees, provided that such plan shall have been determined by the Internal Revenue Service to be a qualified plan for Federal income tax purposes under the provisions of Section 401(a) of the Internal Revenue Code of 1954 as amended.”

(4) Adding a new subdivision at the end of subsection (b) to be designated as subdivision (20) and to read as follows:

“(20) The amount of any reduction after December 31, 1973, in the retired or retainer pay of a member or former member of the uniformed services of the United States who has made an election under Chapter 73 of Title 10 of the United States Code to receive a reduced amount of retired or retainer pay.

In the case of any individual referred to in the preceding paragraph, all amounts received after December 31, 1973, as retired or retainer pay shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract. The preceding sentence shall apply only to the extent that the amounts received would, but for such sentence, be includible in gross income.

For the purpose of this subdivision and subsection (i) of G.S. 105-141.1, the term ‘consideration for the contract’ means, in respect of any individual, the sum of: a. the total amount of the reductions before January 1, 1974, in his retired or retainer pay by reason of an election under Chapter 73 of Title 10 of the United States Code, and, b. any amounts deposited at any time by him pursuant to Section 1438 of such Title 10.”

(b) Changing G.S. 105-141.1 by adding at the end thereof a new subsection to be designated as subsection (i) and to read as follows:

“(i) Annuities Under Retired Serviceman’s Family Protection Plan. Neither subsection (c) nor that portion of subsection (a) which provides an exclusion from income for a portion of an annuity shall apply in the case of amounts received after December 31, 1973, as an annuity under Chapter 73 of Title 10 of the United States Code, but all such amounts shall be excluded from gross income until there has been so excluded (under G.S. 105-141(b)(20) or this section, including amounts excluded on or after January 1, 1974) an amount equal to the consideration for the contract (as defined by G.S. 105-141(b)(20)), plus any amount under G.S. 105-141(b)(11) treated as additional consideration paid by the employee. Thereafter all amounts so received shall be included in gross income.”

(c) Changing G.S. 105-141.3 by deleting the period at the end thereof and adding the following: “and less losses from dealings in business property and property held for the production of income.”

(d) Making the following changes in G.S. 105-142:

(1) Deleting from the first sentence of subsection (c) the words “dividends from foreign corporations” and inserting in lieu thereof the following: “his share of dividends received by the partnership”.

(2) Adding a sentence at the end of subsection (c) to read as follows: “In any case where it is necessary to determine the gross income of a partner for purposes

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of this Division, such amount shall include his distributive share of the gross income of the partnership.”

(3) Inserting between the comma after the word “organization” and the word “shall” in the first sentence of subsection (d) the phrase “or qualified plan which meets the requirements of Section 401(a) of the Internal Revenue Code of 1954 as amended” and inserting on the sixth line of the first sentence of subsection (d) immediately following the words “such trust” the words “or such qualified plan”.

(4) Adding a new paragraph at the end of subsection (d) to read as follows: “In the case of a pension, profit-sharing, or stock bonus plan or trust established by an employer for the benefit of his employees which does not meet the requirements of G.S. 105-161(f)(1)a. or Section 401(a) of the Internal Revenue Code of 1954 as amended, any contributions to such plan or trust made by an employer during a taxable year shall be reportable as income in such taxable year by employees in whose names such contributions are credited only to the extent that such employees shall have acquired a nonforfeitable right to such contributions in such taxable year.”

(5) Adding on the ninth line of subdivision (f)(2) within the parentheses the phrase “which are not readily marketable” so the phrase enclosed within the parentheses will read as follows: “(exclusive of evidences of indebtedness of the purchaser which are not readily marketable).”

(e) Making the following changes in G.S. 105-142.1:

(1) Deleting from the fourth line of subsection (b) the word “of” which follows the word “estate” and inserting in lieu thereof the word “or” so as to read “the estate or such person.”

(2) Changing the period at the end of subsection (e) to a semicolon and adding the following: “provided, that expense for medical care of the decedent allowable under the provisions of G.S. 105-147(11) which are paid out of the estate of such decedent during the one-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.”

(f) Making the following changes in G.S. 105-144:

(1) Changing the period at the end of subdivision (3)b of subsection (a) to a semicolon and adding the following: “provided further, that the basis for determining gain or loss from the sale or exchange of a life interest in property which was acquired by gift shall be zero, except that this provision shall not apply in the case of a sale or exchange of both the life and remainder interests in the property simultaneously.”

(2) Changing the period at the end of subdivision (3)c of subsection (a) to a semicolon and adding the following: “provided, that the basis for determining gain or loss from the sale or exchange of a life interest in property which was acquired by bequest, devise, or descent shall be zero, except that this provision shall not apply in the case of a sale or exchange of both the life and remainder interest in such property simultaneously.”

(g) Changing G.S. 105-144.1 by deleting from subdivision (2)b.1. of subsection (a) thereof the words “One year” and substituting in lieu thereof the words “Two years”.

(h) Changing G.S. 105-144.2 by adding a new subsection at the end thereof to be designated as subsection (h) and to read as follows: “(h) Members of the Armed Forces. The running of any period of time specified in subsection (a) or

(c) (other than the one year referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of sale of the old residence and during an induction period (as defined in G.S. 105-141(b)(12)) except that any such period of time as so suspended shall not extend beyond the date four (4) years after the date of sale of the old residence. For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(i) Making the following changes in G.S. 105-147:

(1) Inserting in subdivision c of subsection (1) between the words "conservation" and "to" the phrase "or prevention of erosion of land" so as to read "soil and water conservation or prevention of erosion of land."

(2) Deleting from subdivision b.1. of subsection (6) the words "on net income" and substituting in lieu thereof the phrase "on, with respect to, or measured by income" so as to read "Taxes on, with respect to, or measured by income by whatever name called and excess profits taxes."

(3) Adding to the last sentence of subsection (7) immediately following the words "regulated investment company" as these words appear twice in that sentence the words "and real estate investment trust" so as to read in both instances "regulated investment company and real estate investment trust," and deleting the words "North Carolina" immediately preceding the word "regulated."

(4) Repealing subsection (8) in its entirety and substituting in lieu thereof a new subsection (8) to read as follows:

"(8) In the case of an individual moving into this State, or an individual moving from one location to another within this State, moving expenses paid or incurred during the taxable year in connection with the commencement of work in this State by such individual as an employee at a new principal place of work, in this State to the extent allowed or allowable for federal income tax purposes under the provisions of Section 217 of the Internal Revenue Code of 1954 as amended. In the case of an individual moving out of this State, moving expenses paid or incurred during the taxable year in connection with the commencement of work outside this State, provided that such individual remains a resident of this State and reports to this State for taxation all income required to be so reported by a resident individual under this Division for the period of time required under Section 217 of the Internal Revenue Code of 1954 as amended for qualifying for the moving expense deduction for federal income tax purposes and only to the extent allowed or allowable under that section for federal income tax purposes. Where joint federal returns are filed by husband and wife for federal income tax purposes, the deduction otherwise allowable under this subsection shall be limited to such amount as would have been allowable if separate federal income tax returns had been filed."

(5) Adding a new subdivision to subsection (9) to be designated as subdivision e. and to read as follows:

"e. Disaster losses. Notwithstanding the provisions of subdivisions a. and b. of this subsection, any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1970

may, at the election of the taxpayer, be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred, based on the facts existing at the date the taxpayer claims the loss. If an election is made under this subdivision, the casualty resulting in the loss will be deemed to have occurred in the taxable year for which the deduction is claimed.”

(6) Repealing subsection (14) in its entirety and redesignating subsection (24) (relating to a deduction for removal of architectural barriers to the handicapped) as subsection (14).

(7) Repealing subsection (20) in its entirety and substituting in lieu thereof a new subsection (20) to read as follows:

“(20) Reasonable amounts paid by employers within the income year to trusts which qualify for exemption under subsection (f)(1)a. of G.S. 105-161 and to plans established by employers for the benefit of their employees which meet the requirements of Section 401(a) of the Internal Revenue Code of 1954 as amended; reasonable amounts paid by a self-employed individual or owner-employee to a retirement program pursuant to a plan adopted by such individual and approved by the Internal Revenue Service; and reasonable amounts paid by employers to nonqualified plans or trusts established by employers for the benefit of their employees, but only to the extent that such amounts contributed by such employers shall be required under the provisions of this Division to be included in the gross income of such employees; provided, that amounts which are deductible for federal income tax purposes shall be prima facie allowable as deductions hereunder; provided further, that in the case of taxpayers on the accrual basis, they shall be deemed to have made payments on the last day of the year of accrual if actual payments are made within the time fixed by statute for filing the taxpayer’s return.”

(j) Changing G.S. 105-149 by deleting subsection (b) thereof in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

“(b) In the case of an individual having only a portion of his income during the income year taxable to this State, the exemptions otherwise allowable under this section shall be allowed only in the proportion that his adjusted gross income taxable to this State bears to his total adjusted gross income; provided that any taxpayer who shall report for taxation by this State all of his income during the income year shall be entitled to the full personal exemption allowable under this section.”

(k) Repealing G.S. 105-150 in its entirety.

(l) Making the following changes in G.S. 105-152:

(1) Inserting in subdivision (1) of subsection (a) immediately following the word and figure “subdivision (5)” the phrase, “and the additional exemptions provided under subdivisions (8) and (9)”, so as to read “without the inclusion of the exemption for dependents provided under subdivision (5) and the additional exemptions provided under subdivisions (8) and (9).”

(2) Deleting from subdivision (3) of subsection (a) the words “having a place of” and substituting in lieu thereof the word “doing” so as to read “doing business in this State.”

(m) Making the following changes in G.S. 105-154:

(1) Inserting on the tenth line of subsection (a) between the words “wages” and “premiums” the word “dividends” so as to read “salaries, wages, dividends, premiums.”

(2) Deleting from the first sentence of subsection (b) the words “having a place of” and substituting in lieu thereof the word “doing” so as to read “Every partnership doing business in the State.”

(n) Changing G.S. 105-157 by replacing the period at the end of subsection (a) thereof with a semicolon and adding the following: “provided, that if the amount shown to be due after all credits is less than one dollar (\$1.00), no payment need be made.”

**Sec. 6.** Division III of Article 4 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Making the following changes in G.S. 105-161:

(1) Deleting subdivision (3) of subsection (d) in its entirety and substituting in lieu thereof a new subdivision (3) to read as follows

“(3) Double Deduction Not Allowed. The amounts allowable under G.S. 105-9 as a deduction in computing the taxable estate of a decedent for inheritance tax purposes, to the extent that they consist of those items which would be allowable as a deduction under G.S. 105-147 for income tax purposes, shall not be allowed as a deduction in computing the taxable income of the estate or of any other person unless there is filed, within the time and in the manner and form prescribed by the Secretary of Revenue, a statement that such amounts have not been allowed as deductions under G.S. 105-9 and a waiver of the right to have such amounts allowed as deductions under G.S. 105-9. This subdivision shall not apply with respect to deductions allowed under G.S. 105-142.1 (e) (relating to income in respect of decedents).”

(2) Deleting from the eighth line of subdivision (4)a of subsection (d) the words “or permanently set aside”.

(3) Adding a new paragraph at the end of subdivision (4)a of subsection (d) to read as follows: “In the case of an estate there shall be allowed as a deduction in computing its taxable income any amount of gross income, without limitation, which pursuant to the terms of its governing instrument is during the taxable year, permanently set aside for religious, charitable, scientific, literary, or educational purposes, or for a distributee specified in G.S. 105-147(15) or G.S. 105-147(16).”

(4) Changing the period at the end of subdivision (1) of subsection (i) to a semicolon and adding at the end thereof the following: “provided, that if the amount shown to be due after all credits is less than one dollar (\$1.00), no payment need be made.”

(b) Changing G.S. 105-163 by deleting subdivision (2) of subsection (b) thereof in its entirety and redesignating subdivisions (3) and (4) of subsection (b) as subdivisions (2) and (3), respectively.

**Sec. 7.** Article 4A of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Adding a new subsection at the end of G.S. 105-163.6 to be designated as subsection (f) and to read as follows:

“(f) Any person required to collect, truthfully account for, and pay over any amounts required to be deducted and withheld under G.S. 105-163.2, who fails to collect and pay over such amount shall, in addition to other penalties provided by law, be personally liable to a penalty equal to the total amount not

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collected or not accounted for and paid over. No penalty shall be imposed under G.S. 105-163.17 for any offense to which this section is applicable.”

(b) Making the following changes in G.S. 105-163.11:

(1) Deleting from subdivision (1) of subsection (a) the words and figures “two hundred dollars (\$200.00)” and inserting in lieu thereof “one thousand dollars (\$1,000).”

(2) Deleting from subdivision (2) of subsection (a) the words and figures “two hundred dollars (\$200.00)” as they appear twice in that subdivision and substitute in lieu of each the words and figures “one thousand dollars (\$1,000).”

(3) Adding at the end of subsection (a) a new subdivision to be designated as subdivision (3) to read as follows: “(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, no declaration is required to be filed if the estimated tax (as determined under this section) reduced by the amount which the individual estimates as the amount of income tax to be withheld under the provisions of G.S. 105-163.2 and by any estimated tax credit under the provisions of G.S. 105-151 for income tax imposed by and paid to another state or country, can be reasonably expected to be less than forty dollars (\$40.00).”

(4) Deleting from the first line of subsection (e) the date “February 15” and inserting in lieu thereof the date “March 1.”

(c) Changing G.S. 105-163.15 by deleting from both the second and sixth lines of subdivision (1) of subsection (b) the words and figures “seventy per cent (70%)” and substituting in lieu thereof in each case the words and figures “eighty per cent (80%).”

**Sec. 8.** Article 5 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting G.S. 105-164.3(17) to read as follows:

“(17) ‘Storage’ means and includes any keeping or retention in this State for any purpose by the purchaser thereof, except sale in the regular course of business, of tangible personal property purchased from a retailer.”

(b) Rewriting G.S. 105-164.3(19) to read as follows:

“(19) ‘Storage’ and ‘Use’; Exclusion.—‘Storage’ and ‘use’ do not include the keeping, retaining or exercising any right or power over tangible personal property by the purchaser thereof for the original purpose of subsequently transporting it outside the State for use thereafter solely outside the State and which purpose is consummated, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State.”

(c) Inserting the word “of” immediately after the word “computation” and immediately before the word “tax” in line 8 of G.S. 105-164.4(1) as the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina.

(d) Deleting from G.S. 105-164.4(4) the last sentence thereof, which reads as follows:

“Persons, firms and corporations required to be licensed under this Article and to pay the taxes imposed by this subdivision shall not hereafter be subject to the one percent (1%) of gross receipts taxes levied under G.S. 105-74 and 105-85, with respect to gross receipts collected on and after July 1, 1961.”

(e) Deleting from G.S. 105-164.13(15) the word “purchases” as the same appears in line 1 of the 1972 Replacement Volume 2D of the General Statutes and substituting in lieu thereof the word “purchasers”.

(f) Deleting from G.S. 105-164.13(23) the word “or” appearing immediately after the word “retail” and immediately before the word “when” in line 7 thereof as the same appears in 1972 Replacement Volume 2D of the General Statutes and substituting therefor the word “and”.

**Sec. 9.** Article 6 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the first sentence of subparagraph (3) of G.S. 105-188(e) to read as follows:

“(3) From the tax thus computed, deduct the total gift tax, if any, computed with respect to gifts to the same donee in any prior year or years since January 1, 1948.”

(b) Rewriting the first sentence of G.S. 105-197, to read as follows:

“Any person who within the calendar year nineteen hundred thirty-nine, after March 24, 1939, or any calendar year thereafter, makes any gift or gifts taxed by this Article shall report, under oath or affirmation, to the Department of Revenue, on forms provided for that purpose, showing therein an itemized schedule of all such gifts, the name and residence of each donee and the actual value of the gift to each, the relationship of each of such persons to the donor, and any other information which the Department of Revenue may require.”

**Sec. 10.** Article 6 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by adding a new section, G.S. 105-197.1 thereto, to read as follows:

“§ 105-197.1. *Corrections and changes.*—If the amount of the net gifts of any taxpayer for any year, subject to the provisions of this act and as reported or as reportable to the United States Treasury Department, is changed, corrected, or otherwise determined by the Commissioner of Internal Revenue or other officer of the United States having authority to do so, such taxpayer, within 30 days after receipt of any Internal Revenue agent's report or supplemental report reflecting the corrected or determined net gifts shall make return under oath or affirmation to the Secretary of Revenue of such corrected, changed or determined net gifts. In making any assessment or refund under this section, the Secretary shall consider all facts or evidence brought to his attention, whether or not the same were considered or taken into account in the federal assessment or correction. If the taxpayer fails to notify the Secretary of Revenue of assessment of additional tax by the Commissioner of Internal Revenue, the statute of limitations shall not apply. The Secretary of Revenue shall thereupon proceed to determine, from such evidence as he may have brought to his attention or shall otherwise acquire, the correct net gifts of such taxpayer for the calendar year, and if there shall be any additional tax due from such taxpayer the same shall be assessed and collected; and if there shall have been an overpayment of the tax the said Secretary shall, within 30 days after the final determination of the net gifts of such taxpayer, refund the amount of such excess: Provided, that any taxpayer who fails to comply with this section as to making report of such change as made by the federal government within the time specified shall be subject to all penalties as provided in G. S. 105-236, in case of additional tax due, and shall forfeit his rights to any refund due by reason of such change.

When the taxpayer makes the return reflecting the corrected net gifts as required by this section, the Secretary of Revenue shall make assessments or refunds based thereon within three years from the date the return required by this section is filed, and not thereafter. When the taxpayer does not make the return reflecting the corrected net gifts as required by this section but the Department of Revenue receives from the United States government or one of its agents a report reflecting such corrected net gifts, the Secretary of Revenue shall make assessments for taxes due based on such corrected net gifts within five years from the date the report from the United States government or its agent is actually received, and not thereafter.

Nothing in this section shall be construed as preventing the Secretary of Revenue from making an assessment immediately following the receipt from any source of information concerning the correcting, change in, or determination of net gifts of a taxpayer by the United States government. The assessment of tax or additional tax under this section shall not be subject to any statute of limitations except as provided in this section."

**Sec. 11.** Article 7 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Adding at the end of G.S. 105-200 a new sentence to read as follows: "For the purpose of this section, money on hand shall include legal tender of the United States and other countries, bills of exchange, checks, drafts and other similar instruments."

(b) Rewriting subparagraph (1) of the first paragraph of G.S. 105-202 in its entirety, to read as follows:

"(1) Accounts payable; provided, however, that accounts payable to security brokers incurred directly for the purchase of bonds, debentures and similar investments taxable under this section shall be deductible;"

(c) Rewriting the second paragraph of G.S. 105-203 in its entirety, to read as follows:

"The tax herein levied shall not apply to shares of stock in building and loan associations or savings and loan associations which pay a tax as levied under Article 8D of Chapter 105 of the General Statutes, nor to shares of stock owned by any corporation which has its commercial domicile in North Carolina, where such corporation owns more than fifty percent (50%) of the outstanding voting stock."

(d) Amending G.S. 105-206 by:

(1) Rewriting the second paragraph thereof to read as follows:

"Every person, firm, association, corporation, clerk of court, guardian, trustee, executor, administrator, receiver, assignee for creditors, trustee in bankruptcy or other fiduciary owning or holding any intangible personal properties defined and classified and/or liable for or required to pay any tax levied, in this Article or schedule, either as principal or agent, shall make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete return of such tax liability; such return, together with the total amount of tax due, shall be filed on or before the fifteenth day of April in each year. In case of sickness, absence or other disability or whenever in his judgment good cause exists, the Secretary of Revenue may allow further time for filing returns."

(2) Adding the words "or on any other taxable date" immediately following the word "year" appearing on line 17 of the third paragraph of G.S. 105-206, as

the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina;

(3) Deleting the fifth paragraph thereof in its entirety.

(e) Rewriting the first paragraph of G.S. 105-211 to read as follows:

“Any taxpayer who shall, for the purpose of evading taxation under the provisions of this Article or schedule, within 30 days prior to December 31 of any year, or within 30 days prior to any other taxable date, either directly or indirectly convert any intangible personal property taxable under the provisions of this Article or schedule into another class of property nontaxable in this State, or who, with like intent, shall either directly or indirectly convert such intangible personal property into a class of property which is taxable in this State at a lower rate than the intangible personal property so converted, shall be taxable on such intangible personal property as if such conversion had not taken place; the fact that such taxpayer within 30 days after December 31 of any year, or within 30 days after any other taxable date, either directly or indirectly converts such property nontaxable in this State or taxable at the lower rate in this State into intangible personal property taxable at the higher rate shall be prima facie evidence of intent to evade taxation by this State, and the burden of proof shall be upon such taxpayer to show that the first conversion was for a bona fide purpose of investment and not for the purpose of evading taxation by this State. Furthermore, no indebtedness will be allowed as a deduction from the value of any intangible personal property taxed under this Article if such indebtedness was incurred for the primary purpose of reducing or offsetting the tax due; and the burden of proof shall be upon the taxpayer to show that any indebtedness claimed was for a purpose other than that of reducing or offsetting the tax due.”

(f) Rewriting the first paragraph of G.S. 105-212 in its entirety, to read as follows:

“None of the taxes levied in this Article or schedule shall apply to religious, educational, charitable or benevolent organizations not conducted for profit, nor to trusts established for religious, educational, charitable or benevolent purposes where none of the property or the income from the property owned by such trust may inure to the benefit of any individual or any organization conducted for profit, nor to any funds held irrevocably in trust exclusively for the maintenance and care of places of burial; nor to any funds, evidences of debt, or securities held irrevocably in pension, profit sharing, stock bonus, or annuity trusts, or combinations thereof, established by employers for the purpose of distributing both the principal and income thereof exclusively to eligible employees, or the beneficiaries of such employees, if such trusts qualify for exemption from income tax under the provisions of G.S. 105-161(f)(1)a; nor to any funds, evidences of debt or securities held irrevocably in a pension, profit sharing, stock bonus or annuity plan established by an employer for the benefit of his employees or for himself and his employees if such plan qualifies for exemption from income tax under the provisions of G.S. 105-141(b)(19); insurance companies reporting premiums to the Commissioner of Insurance of this State and paying a tax thereon under the provisions of Article 8B, Schedule I-B shall not be subject to the provisions of G.S. 105-201, 105-202 and 105-203; building and loan associations and savings and loan associations paying a tax under the provisions of Article 8D of Chapter 105 of the General Statutes shall not be subject to the provisions of G.S. 105-201, 105-202 and 105-203; State credit

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unions organized pursuant to the provisions of Subchapter III, Chapter 54, paying the supervisory fees required by law, shall not be subject to any of the taxes levied in this Article or schedule; banks, banking associations and trust companies shall not be subject to the tax levied in this Article or schedule on evidences of debt held by them when said evidences of debt represent investment of funds on deposit with such banks, banking associations and trust companies: Provided, that each such institution must, upon request by the Secretary of Revenue, establish in writing its claim for exemption as herein provided. The exemption in this section shall apply only to those institutions, and only to the extent, specifically mentioned, and no other.”

(g) Amending G.S. 105-213 by rewriting the second paragraph thereof in its entirety, to read as follows:

“In determining the amount to be distributed there shall be deducted from net collections (total collections less refunds) the following:

- (1) The tax credit specified in the second paragraph of G.S. 105-122(d), and
- (2) The cost to the State to administer and collect the taxes levied under this Article for the preceding fiscal year, and
- (3) The cost to the State for the operation of the Ad Valorem Tax Division of the Department of Revenue and of the Property Tax Commission for the preceding fiscal year.”

**Sec. 12.** Article 8C of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting from G.S. 105-228.12 as the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina the word “preceding” in line 9, and the word “preceding” in line 11 of said section.

(b) Rewriting G.S. 105-228.15 in its entirety, to read as follows:

“§ 105-228.15. *Gross income defined.*—For purposes of this Article the words ‘gross income’ shall mean the income of a bank received or accrued from whatever source during the taxable year as follows: Interest and discount on loans; interest from bonds, notes, mortgages and other investments, including interest from all government bonds issued directly by any level of government or through any government agency, any exclusion provided in Article 4 of Subchapter I of Chapter 105 notwithstanding; dividends from securities owned; service charges; collection fees; exchange charges; trust department earnings; rents; commissions, gains or profits from the sale or other disposition of property, either real or personal, tangible or intangible; recoveries from losses previously written off or deducted from income in prior taxable years; and all other recoveries, gains, profits, income or receipts regardless of nature and from whatever source derived, except that there shall be excluded from gross income gifts and payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in inter-company transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State.”

(c) Rewriting G.S. 105-228.16(1) in its entirety, to read as follows:

“(1) All ordinary and necessary expenses paid or accrued during the taxable year except that no deduction shall be allowed for payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all inter-company transactions of any kind whatsoever pursuant to the Revenue Laws of this State.”

(d) Rewriting G.S. 105-228.16(3) in its entirety, to read as follows:

“(3) All unearned discount and interest paid during the taxable year except interest paid in connection with income exempt from taxation under this Article.”

(e) Rewriting G.S. 105-228.16(7) in its entirety, to read as follows:

“(7) Bad debts to the extent deducted for federal income tax purposes.”

**Sec. 13.** Article 9 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Making the following changes in G.S. 105-236:

1. Inserting between the last two words of subdivision a. of subsection (10) the word “or” so as to read “trust or estate”.

2. Adding at the end of subsection (11) a new paragraph to read as follows: “The term ‘person’ as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.”

(b) Changing G.S. 105-241.1 by deleting the second and last sentences of subsection (e) and substituting in lieu thereof the following: “Any tax or additional tax due from the taxpayer may be assessed at any time if (1) no proper application for a license or no return has been filed, (2) a false or fraudulent application or return has been filed, or (3) there has been an attempt in any manner to fraudulently defeat or evade tax.”

(c) Deleting from the fourth paragraph of G.S. 105-242(c) the words “Deputy Collector N. C. Department of Revenue” which appear in italics in the line immediately above the word “WITNESS”, and substituting therefor the words, in italics, “Revenue Collector N. C. Department of Revenue”.

(d) Inserting a new paragraph in G.S. 105-253, immediately following the first paragraph thereof to read as follows:

“Each responsible corporate officer is made personally and individually liable: (1) for all sales and use taxes collected by a corporation upon taxable transactions of the corporation, which liability shall be satisfied upon timely remittance of such taxes to the Secretary by the corporation; and (2) for all sales and use taxes due upon taxable transactions of the corporation but upon which the corporation failed to collect the tax, but only if the responsible officer knew, or in the exercise of reasonable care should have known, that the tax was not being collected. His liability shall be satisfied upon timely remittance of such tax to the Secretary by the corporation. If said tax shall remain unpaid by the corporation, after the same is due and payable, the Secretary of Revenue may assess the tax against, and collect the tax from, any responsible corporate officer in accordance with the provisions of G.S. 105-241.1, which officer shall be the “taxpayer” in such case, as referred to in G.S. 105-241.1 et seq. As used in this section, the words “responsible corporate officers” mean the president and the treasurer of a corporation and may include such other officers as have been assigned the duty of filing tax returns and remitting sales and use tax to the Secretary of Revenue on behalf of the corporation. Any penalties which may be imposed pursuant to the provisions of G.S. 105-236 and which are applicable to a deficiency shall apply to any assessment provided for herein. All other provisions of Article 9, Schedule J of the Revenue Laws shall apply to such assessment to the extent that they are not inconsistent with the provisions of this section.”

(e) Making the following changes in G.S. 105-259:

(1) rewriting the first paragraph thereof to read as follows:

“Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Secretary of Revenue, any deputy, agent, clerk, other officer, employee, or former officer or employee, to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deducted or estimated, whether the same be set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to such taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public records. It shall likewise be unlawful to abstract, compile or furnish to any person, firm or corporation, not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning such taxpayers, whether or not such list discloses a taxpayer’s income, income tax or other taxes, or any part thereof.”

(2) rewriting the third paragraph thereof to read as follows:

“When any record of the Department of Revenue shall have been photographed, photocopied or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the original of said record may thereafter be destroyed at any time upon the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-3 or any other law or laws relating to the preservation of public records. Any record which shall not have been so photographed, photocopied or microphotocopied shall be preserved for three years, and thereafter until the Secretary of Revenue shall order the same to be destroyed.”

**Sec. 14.** Subchapter V of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the second sentence of G.S. 105-446(1) in its entirety, to read as follows:

“Such application shall be made upon oath or affirmation upon such forms as the Secretary of Revenue shall prescribe, and the Secretary of Revenue is hereby authorized to prescribe different forms of application for the several classes of uses for which said fuels may have been purchased, provided that as to all such applications for reimbursement the applicant shall be required to state whether or not such applicant has filed a North Carolina income tax return with the Secretary of Revenue; provided, however, that said application shall show on its face that the purchase price of the motor fuel therein referred to has been paid by applicant or that the payment of said purchase price has been secured to the seller’s satisfaction.”

(b) Rewriting the first sentence of G.S. 105-446.1 in its entirety, to read as follows:

“The State Highway Commission, counties, municipal corporations and volunteer or county fire departments shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of the tax levied by G.S. 105-434 upon filing with the Secretary of Revenue a statement showing the number of gallons of fuel purchased and used by the Highway Commission, the municipality, the county, or the volunteer or county fire department on which the tax levied by

G.S. 105-434 has been paid, which statement shall be made upon the oath or affirmation of the Director of Highways or the mayor, city manager or other municipal officer designated by the governing body of the municipality, or the chairman of the board of county commissioners, or other county officer designated by the board of county commissioners or the president or other duly designated officer or agent of the volunteer or county fire department.”

(c) Rewriting the first sentence of G.S. 105-446.3(a) in its entirety, to read as follows:

“Any person, association, firm or corporation, who shall purchase any motor fuels, as defined in this Article, for the purpose of use, and the same is actually used, in the operation of motor buses transporting fare-paying passengers in connection with a city transit system as hereinafter defined in subsection (b) of this section shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of tax levied by this Article upon filing with the Secretary of Revenue an application upon the oath or affirmation of the applicant or his agent showing the number of gallons of motor fuel so purchased and used.”

**Sec. 15.** Sections 1, 2, 8, 13 (except 13(e)) and 14 shall become effective on July 1, 1974. Sections 3, 4, 5, 6, 7, 9, 10, 11 and 12 shall be effective with respect to and shall apply to all taxable years beginning on and after January 1, 1974. Section 13(d) shall not affect the liability of any taxpayer arising prior to July 1, 1974. Section 13(e) shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 1629                      CHAPTER 1288**

**AN ACT TO RETURN A GREATER AMOUNT OF ABC REVENUES TO LOCAL GOVERNMENT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-15(3), as the same appears in the 1973 Cumulative Supplement to 1965 Replacement Volume 1C of the General Statutes, is hereby amended by rewriting the same to read as follows:

“(3) (a) To fix the retail price of each bottle of alcoholic beverages sold in the county and municipal ABC stores at such levels as shall promote the temperate use of these beverages and as may facilitate policing, which price shall be uniform throughout the State;

(b) To compute the taxes levied by G.S. 105-113.93 and G.S. 105-113.94 on the retail prices of spirituous liquors so fixed;

(c) To add to said retail price:

1. an amount equal to three and one-half percent (3 1/2%) of said retail price of spirituous liquors; and
2. one cent (1¢) per bottle on each bottle of alcoholic beverages containing two ounces or less sold in said county and municipal ABC stores and five cents (5¢) per bottle on each bottle of alcoholic beverages containing more than two ounces sold in said stores; the sum of the retail price plus the foregoing additions thereto being the established price for each such bottle of alcoholic beverages. The foregoing additions to retail price shall not be subject to the tax levied by G.S. 105-113.93 and G.S. 105-113.94. The clear proceeds of the three and one-half percent (3 1/2%) addition to the retail price of spirituous liquors shall be retained



Council-Manager form of government, are hereby modified to the extent necessary to conform with the Council-Manager form established by this act.

**Sec. 3.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

**H. B. 2156                      CHAPTER 1290**

**AN ACT RELATING TO THE EMERGENCY RESERVE FUND FOR  
PERSONS ENGAGED IN THE ENFORCEMENT OF THE CRIMINAL  
LAWS OF STANLY COUNTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Board of the Emergency Reserve Fund for Persons Engaged in the Enforcement of the Criminal Laws of Stanly County, created pursuant to Chapter 691 of the 1963 Session Laws, is hereby authorized, empowered, and directed to expend all of the accumulated funds of the Reserve Fund for the purpose of providing annuity benefits for the law enforcement officers participating in said fund, or to otherwise disburse said funds in the manner as hereinafter provided for the benefit of the eligible law enforcement officers; provided that, the Board shall, in the expending or disbursing of said funds, take into consideration and give proper credit to each member for the number of years and months he has been an eligible law enforcement officer.

**Sec. 2.** After making provision for annuity benefits that might otherwise be payable under the provisions of Chapter 691 of the 1963 Session Laws, all the remaining accumulated funds shall be disbursed for the benefit of eligible law enforcement officers in the following manner:

(a) Not later than July 1, 1974, the Board shall cause to be posted in the office of the Clerk of Superior Court of Stanly County a notice containing the names of all law enforcement officers (or their personal representative, or their dependent(s), as the case may be) who are eligible to participate in the distribution of accumulated funds, together with the amount of said funds to be distributed for the benefit of any eligible law enforcement officer.

(b) In arriving at the amount for distribution to each eligible law enforcement officer, the Board shall take into consideration the total number of months of service of said law enforcement officer between the dates of June 5, 1963, and December 1, 1968, with each month constituting one unit of service. The total units of service of all officers shall be divided into any remaining accumulated fund balance for distribution to determine the value per unit. The participating officer shall be entitled to receive that sum which equals the total obtained by multiplying the value per unit of service by the number of units of service that he has accumulated during this time period.

(c) Any objections to the proposed distribution as shown on the public notice provided in subparagraph (a), which is computed as provided in subparagraph (b), shall be filed in writing with the Clerk of Superior Court of Stanly County not later than August 15, 1974. The Board shall then consider such objections and its decision shall be final with respect thereto.

(d) Not later than October 1, 1974, the Board, after making any adjustments which might be required by virtue of action taken under subparagraph (c) hereof, shall cause to be distributed by voucher or other appropriate remittance

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form, the accumulated fund balances to those eligible law enforcement officers who have been determined in the manner herein provided.

(e) In making this distribution, the Board may retain a reasonable sum sufficient to defray the costs of administration of this act.

**Sec. 3.** When said funds have been expended or disbursed according to this act, the officers and members of the Board shall be relieved of all further liability and responsibility for the keeping, managing, and disbursing of said funds.

**Sec. 4.** Chapter 691 of the 1963 Session Laws is hereby repealed.

**Sec. 5.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

## S. B. 479

## CHAPTER 1291

AN ACT TO AMEND THE WORKMEN'S COMPENSATION ACT TO PROVIDE FOR A COMPULSORY WORKMEN'S COMPENSATION LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-3 is hereby amended by rewriting said section to read as follows:

“§ 97-3. From and after the effective date of this act, every employer and employee, as hereinbefore defined and except as herein stated, shall be presumed to have accepted the provisions of this Article respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of his employment and shall be bound thereby.”

**Sec. 2.** G.S. 97-4 is hereby repealed.

**Sec. 3.** G.S. 97-5 is hereby amended by changing the comma appearing after the word “Article” in the sixth line of said section to a period and by striking out the rest of said section.

**Sec. 4.** G.S. 97-7 is hereby amended by striking out of the fifth and sixth lines of said section the following:

“G.S. 97-4, 97-5, 97-14, 97-15, 97-16, and” and by inserting in lieu thereof the “G.S.”.

**Sec. 5.** G.S. 97-9 is hereby amended by striking out of the second line of said section the words “who accepts” and inserting in lieu thereof the words “subject to” and by striking out of the fifth line of said section the words “who elects to come under this Article”.

**Sec. 6.** G.S. 97-10.1 is hereby amended by striking out of the first line of said section the words “accepted and”.

**Sec. 7.** G.S. 97-14 is hereby repealed.

**Sec. 8.** G.S. 97-15 is hereby repealed.

**Sec. 9.** G.S. 97-16 is hereby repealed.

**Sec. 10.** G.S. 97-19 is hereby amended by striking out of the eighth line of said section the words “had accepted” and by inserting in lieu thereof the words “were subject to”.

**Sec. 11.** G.S. 97-27(a) is hereby amended by striking out of the twelfth line of said section the words “who may have accepted” and by inserting in lieu thereof the words “subject to”.



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**Sec. 5.** G.S. 95-68 as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes is hereby amended by striking out the words “of the Division of Standards and Inspections of the Department of Labor for its general inspection service” in the thirty-fifth and thirty-sixth lines and inserting in lieu thereof the words “for the supervision and administration of this Article within the Department of Labor”.

**Sec. 6.** G.S. 95-68.1 as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes is hereby amended by striking out the words and figures “two dollars (\$2.00)” in the sixth line and inserting in lieu thereof the words and figures “four dollars (\$4.00)”.

**Sec. 7.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1238

## CHAPTER 1293

AN ACT TO ESTABLISH EQUAL EDUCATIONAL OPPORTUNITIES IN THE PUBLIC SCHOOLS; AND FOR OTHER PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** The General Assembly of North Carolina finds:

(a) That the people of North Carolina have historically had a high regard for equal educational opportunities, and have set forth a mandate in the Constitution of North Carolina providing in Article I, Section 15 and in Article IX, Section 2 that the people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right, and that the General Assembly shall provide a general and uniform system of free public schools;

(b) That past program development for children has resulted in a great variation of services, particularly to those children with special needs, with some children having a greater educational opportunity than others; that the labeling of children, and defining the needs of children within the boundaries of those labels, have had a stigmatizing effect and have caused service and education programs to be overly narrow and rigid, both in their content and their inclusion and exclusion policies.

**Sec. 2.** The General Assembly of North Carolina hereby declares that the policy of the State is to ensure every child a fair and full opportunity to reach his full potential and that no child as defined in this act shall be excluded from service or education for any reason whatsoever.

**Sec. 3.** The General Assembly of North Carolina further declares that the public policy of North Carolina is defined in greater detail to carry out the foregoing stated policies as follows:

(a) The State shall provide for a comprehensive early childhood development program by emphasizing preventative and remedial measures designed to provide the services which will enable children to develop to the maximum level their physical, mental, social, and emotional potentials and to strengthen the role of the family as the first and most fundamental influence on child development.

(b) The State shall develop a system of educational opportunities for all children with special needs and require the identification and evaluation of the needs of children and the adequacy of various education programs before

placement of children, and shall provide for periodic evaluation of the benefits of programs to the individual child and the nature of the child's needs thereafter;

(c) The State shall prevent denial of equal educational and service opportunity on the basis of national origin, sex, economic status, race, religion, and physical, mental, social or emotional handicap in the provision of services to any child;

(d) It is recognized that children have a variety of characteristics and needs, all of which must be considered if the potential of each child is to be realized; that in order to accomplish this the State must develop a full range of service and education programs, and that a program must actually benefit a child or be designed to benefit a particular child in order to provide such child with appropriate educational and service opportunities.

**Sec. 4.** The General Assembly of North Carolina finds that various studies and various programs have been undertaken and that tremendous public interest exists to seek ways of more effectively rendering a beneficial service to all of our children, and especially with children who have special needs.

In this context the term "child with special needs" means any child who because of temporary or permanent disabilities arising from intellectual, sensory, emotional, physical, environmental factors, or other specific learning disability is inhibited from achieving his full potential; to include, but not limited to, the educable, trainable, profoundly, and functionally retarded, emotionally disturbed, learning disabled, the physically handicapped or other impairments including hospitalized, homebound, or pregnant, the deaf or hearing-impaired, the language or speech-impaired, the blind or visually-impaired, gifted and talented, autistic, dependent, abused, neglected, multiple-impaired, and socially maladjusted.

**Sec. 5.** The General Assembly finds that a separate legislative act (Senate Bill 1382, Chapter , Session Laws of 1974) creates a permanent Legislative Commission on Children with Special Needs which will address itself to the policy matters that have been declared in this act.

The Department of Human Resources and the Department of Public Education are hereby declared vital departments of State Government to especially assist said Commission and to furnish them with information, and to the extent permitted by the Commission, to actively participate in the work and deliberations of the Commission.

**Sec. 6.** The General Assembly of North Carolina finds that a current census of all children with special needs is urgently needed and is necessary in order that appropriate legislation may be enacted to provide service and education programs for all of said children and for this purpose there is hereby appropriated from the General Fund the sum of fifty thousand dollars (\$50,000) to the Department of Human Resources and fifty thousand dollars (\$50,000) to the Department of Public Education with the requirement that they work in cooperation for the purpose of planning and conducting the census. The result of the census shall be used by the Department of Human Resources, the Department of Public Education, the Commission on Children with Special Needs, and other agencies of government for program planning.

**Sec. 7.** The Department of Human Resources and the Department of Public Education shall use the results of the census to jointly develop a State plan for providing equal education and services to children with special needs. The plan shall include: the number and geographic distribution of all children

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residing in the State who have special needs, a listing of all public and private special education and service programs available in the State and the number of children served by each program. A preliminary plan shall be submitted to the 1975 General Assembly and shall contain the actions required by the Department of Human Resources and the Department of Public Education for securing full compliance with the policy of this act. The plan shall also specify a date by which the State shall accomplish the intent of this act and shall also include an estimate of the cost of full implementation of the policy.

**Sec. 8.** The General Assembly finds that the Governor's Advocacy Council on Children and Youth is actively interested and involved in the matter of public policy set forth in this act. In order to more properly carry out their responsibilities said Council needs additional authority.

**Sec. 9.** G.S. 110-71 relating to the Governor's Advocacy Council on Children and Youth is amended by adding the following subsections:

"(9) Each State agency and department having responsibilities for providing services to children and their families, including children with special needs and children in early childhood, shall submit to the Council upon request a plan of services for children that includes:

- (a) Descriptions of the kinds of services and programs it provides;
  - (b) The characteristics of the children to be served through each program, including eligibility and entrance requirements;
  - (c) The geographic distribution of services;
  - (d) The projected budgets for each service or program as well as the cost per unit of service;
  - (e) The client fees to be charged for each service;
  - (f) The mechanism for evaluating and providing technical assistance and staff development to each service or program; and
  - (g) Provisions for parent and child participation and involvement.
- (10) The Council shall review each plan and make recommendations to agencies and departments, and reports to the General Assembly, relative to the expansion, deletion, improvement and coordination of programs and services for children.

(11) To assist children and their parents or guardians in obtaining the assistance and services which the child needs and which are provided by State, local and private agencies or organizations.

(12) To inform the public concerning the importance of early childhood development and related family services, and programs for children with special needs."

**Sec. 10. Right of Appeal.** A child, his parent or guardian, may obtain review, as herein provided, of an action or omission by State or local authorities on the ground that the child has been or is about to be:

(1) (a) denied entry or continuance in a program appropriate to his condition and needs;

(b) placed in a program which is inappropriate, unsuitable, or inadequate to his condition and needs; or

(c) assigned to a special program when he is not a child with special need.

(2) The parent or guardian of a child placed or denied placement in a program shall be notified promptly, by registered or certified mail, return receipt requested, of his placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he

is entitled to review of the determination and of the procedure for obtaining such review. The notice shall contain information that a hearing may be had before the local school board for educational matters or the Advocacy Council for Human Resource matters, upon written request, no less than 15 days nor more than 30 days from the date on which the notice was received. The parent or guardian of a child may, upon written request, not more than 30 days from the date of a decision, appeal said decision to the State Superintendent of Public Instruction or the Secretary of Human Resources. Any appeal of these decisions to the General Court of Justice must occur within 30 days after notice of such decision.

(3) All hearings shall be closed unless otherwise requested by the parent or guardian of a child.

(4) Ordinarily no change in the program assignment or status of a child with special needs shall be made within the period afforded the parent or guardian to request a hearing, except that such change may be made with the written consent of the parent or guardian. However, if the health or safety of the child or any other individual would be endangered by delaying the change in assignment, the change may be sooner made, but without prejudice to any rights that the child and his parent or guardian may have pursuant to this subsection or otherwise pursuant to law.

(5) The parent or guardian shall have access to any reports, records, clinical evaluations or other materials upon which the determination to be reviewed was wholly or partially based or which could reasonably have a bearing on the correctness of the determination. At any hearing held pursuant to this section, the child and his parent or guardian shall be entitled to examine and cross-examine witnesses, to introduce evidence, to appear in person, and to be represented by counsel.

(6) The Superintendent and the Secretary shall make, amend or revise rules and regulations for the conduct of hearings authorized by this subsection and otherwise for the implementation of its purpose. Among other things, such rules and regulations shall allow the appointment of a hearing officer or board to hear such cases as may be appealed. Copies of such rules shall be filed in the office of the Secretary of State as by law provided.

(7) The determination of the appeal shall be subject to judicial review in the manner provided for in Article 31, Chapter 134 of the General Statutes.

(8) The remedies provided by this subsection are in addition to any other remedies which a child, his parent or guardian may otherwise have pursuant to law.

**Sec. 11.** There shall be transferred from the State Department of Public Education to the Department of Human Resources: The \$830,766 Child Health Fund.

**Sec. 12.** The Revisor of Statutes is directed to codify the provisions of this Act within various sections of the General Statutes.

**Sec. 13.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 14.** This act shall be in full force and effect on July 1, 1974.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1421 CHAPTER 1294

AN ACT TO AMEND CHAPTER 66-58 OF THE GENERAL STATUTES RELATING TO BUSINESS OPERATIONS OF CAMPUS STORES AT STATE-SUPPORTED INSTITUTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 66-58(c)(3) is hereby rewritten to read as follows:

“(3) The business operation of endowment funds established for the purpose of producing income for educational purposes; for purposes of this section, the phrase ‘operation of endowment funds’ shall include the operation by public post-secondary educational institutions of campus stores, the profits from which are used exclusively for awarding scholarships to defray the expenses of students attending the institution; provided, that the operation of such stores must be approved by the board of trustees of the institution, and the merchandise sold shall be limited to educational materials and supplies, gift items and miscellaneous personal-use articles. Provided further that sales at campus stores are limited to employees of the institution and members of their immediate families, to duly enrolled students and their immediate families, and to other persons who are on campus other than for the purpose of purchasing merchandise from campus stores. It is the intent of this act that campus stores be established and operated for the purpose of assuring the availability of merchandise described in this Article for sale to persons enumerated herein and not for the purpose of competing with stores operated in the communities surrounding the campuses of the University of North Carolina.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1463 CHAPTER 1295

AN ACT TO AMEND CHAPTER 18A TO ALLOW THE IMPORTING OF WINES APPROVED BY THE UNITED STATES BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-34(c) is amended by adding at the end of the last sentence the following:

“The Board may in its discretion grant permits for the ordering of wines (fortified or unfortified) not on the Board’s approved list, provided these wines meet the Standards of Identity and Labeling set forth in Title 27, Code of Federal Regulations, Part 4, Subchapter A, and provided further that the wines be used by the purchaser or his bona fide guests and not for re-sale except by Grade A restaurants. A permit issued under this subsection shall specifically list the wines to be imported and shall be valid for a period of one year.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. B. 1720

**CHAPTER 1296**

AN ACT TO AMEND CHAPTER 122A OF THE GENERAL STATUTES OF NORTH CAROLINA TO CHANGE THE NAME OF THE NORTH CAROLINA HOUSING CORPORATION TO NORTH CAROLINA HOUSING FINANCE AGENCY, TO PERMIT SAID AGENCY TO ACCEPT THE PROCEEDS OF GENERAL OBLIGATION BONDS OF THE STATE TO ACCOMPLISH ITS CORPORATE PURPOSES, TO USE THE PROCEEDS OF BONDS OF THE AGENCY TO PURCHASE FEDERALLY INSURED SECURITIES OF MORTGAGE LENDERS WHERE SUCH EXPENDITURES OF PROCEEDS WILL PROVIDE RESIDENTIAL HOUSING FOR PERSONS OF LOWER INCOME AND TO AUTHORIZE THE AGENCY TO INSURE MORTGAGE LOANS MADE FOR THE PURPOSE OF PROVIDING HOUSING FOR PERSONS OF LOWER INCOME.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122A-1 is hereby amended to read as follows:

“This Chapter shall be known and may be cited as the ‘North Carolina Housing Finance Agency Act’”.

**Sec. 2.** G.S. 122A-2 is hereby amended by deleting the word “Corporation” wherever it appears in the fourth paragraph thereof and inserting in lieu thereof the words “Finance Agency”, by revising the third paragraph to read as follows:

“The General Assembly hereby finds and declares further that the purposes of this Chapter are to provide financing for residential housing construction, new or rehabilitated, for sale or rental to persons and families of lower income.” and by adding an additional paragraph thereto to read as follows:

“The General Assembly hereby further finds and declares that it shall be the policy of said Agency, whenever feasible, to give first priority in its programs to assisting persons and families of lower income in the purchase and rehabilitation of residential housing, and to undertake its programs in the areas where the greatest housing need exists, and to give priority to projects and individual units which conform to sound principles and practices of comprehensive land use and environmental planning, regional development planning and transportation planning as established by units of local government and regional organizations having jurisdiction over the area within which such projects and units are to be located if such government agencies exist in an area under consideration. However, no area of need shall be penalized because government planning agencies do not exist in such areas.”

**Sec. 3.** Paragraph (1) of G.S. 122A-3 is hereby amended by deleting the word “Corporation” and inserting in lieu thereof the word “Agency”, by deleting the words “but shall not include any fund notes”, and by placing a semicolon after the word “Chapter”.

**Sec. 4.** Paragraph (2) of G.S. 122A-3 is hereby amended to read as follows:

“Agency’ means the North Carolina Housing Finance Agency created by this Chapter;”.

**Sec. 5.** Paragraph (3) of G.S. 122A-3 is hereby amended by deleting the entire paragraph and the subparagraphs.

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**Sec. 6.** Paragraph (4) of G.S. 122A-3 is hereby amended by deleting the entire paragraph.

**Sec. 7.** Paragraph (5) of G.S. 122A-3 is hereby amended by renumbering the same as "(3)".

**Sec. 8.** Paragraph (6) of G.S. 122A-3 is hereby amended by deleting the entire paragraph.

**Sec. 9.** Paragraph (7) of G.S. 122A-3 is hereby further amended by deleting the entire paragraph.

**Sec. 10.** Paragraph (8) of G.S. 122A-3 is hereby amended by renumbering the same as "(4)" and revising said paragraph to read as follows:

"'Mortgage' or 'mortgage loan' means a mortgage loan for residential housing, including a mortgage loan insured or guaranteed by the United States or an instrumentality thereof or by which there is a commitment by the United States or an instrumentality thereof to insure such a mortgage;"

**Sec. 11.** Paragraph (9) of G.S. 122A-3 is hereby amended by deleting the entire paragraph.

**Sec. 12.** Paragraph (10) of G.S. 122A-3 is hereby amended by renumbering the same as "(5)" and by revising said paragraph to read as follows:

"'Obligations' means any bonds or bond anticipation notes authorized to be issued by the Agency under the provisions of this Chapter;"

**Sec. 13.** Paragraph (11) of G.S. 122A-3 is hereby amended by renumbering the same as "(6)" and revising said paragraph to read as follows:

"'Persons and families of lower income' means persons and families deemed by the Agency to require such assistance as is made available by this Chapter on account of insufficient personal or family income, taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a lower income basis and (v) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing and deemed by the Agency therefore to be eligible to occupy residential housing financed wholly or in part, with mortgages, or with other public or private assistance;"

**Sec. 14.** Paragraph (12) of G.S. 122A-3 is hereby amended by renumbering the same as "(7)" and revising it to read as follows:

"'Residential housing' means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the rehabilitation of buildings and improvements, and such other nonhousing facilities as may be incidental or appurtenant thereto;"

**Sec. 15.** Paragraph (13) of G.S. 122A-3 is hereby amended by renumbering the same as "(8)".

**Sec. 16.** G.S. 122A-3 is hereby amended by adding thereto an additional paragraph to be numbered "(9)" and to read as follows:

"'Federally insured securities' means an evidence of indebtedness secured by a first mortgage lien on residential housing for persons of lower income and insured or guaranteed as to repayment of principal and interest by the United States or any agency or instrumentality thereof; and".

**Sec. 17.** G.S. 122A-3 is hereby further amended by adding thereto a new paragraph to be numbered "(10)" and to read as follows:

“Mortgage lenders’ means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, mortgage banking company, the federal government and any other financial institution authorized to transact business in the State.”

**Sec. 18.** G.S. 122A-4 is hereby amended by changing the heading to read “North Carolina Housing Finance Agency” and by revising the first paragraph to read as follows:

“There is hereby created a body politic and corporate to be known as ‘North Carolina Housing Finance Agency’ which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions. The Agency shall be governed by a Board of Directors composed of thirteen members. Four of the members of said Board shall be members of the General Assembly, two from each house thereof, the two members from the Senate to be appointed by the President of the Senate and the two members from the House to be appointed by the Speaker of the House. The remaining nine directors of the Agency shall be residents of the State and shall not hold other public office. The President of the Senate also shall appoint one director who shall be experienced with a savings and loan institution and one director who shall be experienced in homebuilding. The Speaker of the House also shall appoint one director who shall have had experience with a mortgage servicing institution and one director who shall be experienced as a licensed real estate broker. The Governor shall appoint four of the directors of the Agency, one of such appointees shall be experienced in community planning, one shall be experienced in subsidized housing management, one shall be experienced as a specialist in housing public policy, and one shall be experienced in the manufactured housing industry. The eight non-legislative directors of the Agency thus appointed shall be appointed for staggered four-year terms, two being appointed initially for one year by the President of the Senate and Speaker of the House respectively, two for two years, by the President of the Senate and by the Speaker of the House respectively, two for three years and two for four years, respectively, as designated by the Governor, and shall continue in office until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Board of Directors shall be eligible for reappointment. The four directors who are members of the General Assembly shall be appointed for a term of two years. The twelve members of the Board shall then elect a thirteenth member to the Board by simple majority vote who shall serve as Chairman. Each non-legislative member of the Board of Directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each non-legislative member of the Board of Directors before entering upon his duties shall take an oath of office to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Board of Directors shall designate one of its members to serve as Vice-Chairman. The terms of the Chairman and Vice-Chairman shall extend to the earlier of either two years or the date of expiration of their then current terms as members of the Board of Directors of the Agency. The Agency shall be placed within the Department of the Treasurer and shall be subject to the general supervision of the Treasurer; provided, however, that the approval of

the Treasurer shall not be required for the exercise by the Agency of any of the powers granted by this act. The Board of Directors shall, subject to the approval of the Treasurer, elect and appoint and prescribe the duties of such other officers as it shall deem necessary or advisable, including an executive director and a secretary, and the Advisory Budget Commission shall fix the compensation of such officers. All personnel employed by the Agency shall be subject to the State Personnel Act and the books and records of the Agency shall be subject to audit by the State."

**Sec. 19.** The second and third paragraphs of G.S. 122A-4 are hereby amended by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency", and by deleting the words "only as to the members appointed by the Governor", in the second paragraph prior to the word "such" in the penultimate line.

**Sec. 20.** The third paragraph of G.S. 122A-4 is hereby amended by adding after the last word in the first sentence the words "Board of Directors." and the penultimate sentence of the third paragraph of G.S. 122A-4 is hereby amended to read as follows:

"Seven members of the Board of Directors of the Agency shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the Board of Directors duly called and held shall be necessary for any action taken by the Board of Directors of the Agency, except adjournment; provided, however, that the Board of Directors may appoint an executive committee to act in behalf of said Board during the period between regular meetings of said Board, and said committee shall have full power to act upon the vote of a majority of its members."

**Sec. 21.** G.S. 122A-5 is hereby amended by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency" and by deleting existing paragraph (1) thereof in its entirety and by inserting in lieu thereof a new paragraph (1) to read as follows:

"To participate in any federally assisted lease program for housing for persons of lower income under any federal legislation, including, without limitation, Section 23 of the National Housing Act; provided, however, that such participation may take place only upon the request and approval of the governing body of the county, city or town in which any such project is to be located;"

**Sec. 22.** Paragraph (2) of G.S. 122A-5 is hereby amended to read as follows:

"To make or participate in the making of mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the Agency that mortgage loans are not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;"

**Sec. 23.** Paragraph (3) of G.S. 122A-5 is hereby amended to read as follows:

"To purchase or participate in the purchase and enter into commitments by itself or together with others for the purchase of mortgage loans made by mortgage lenders to sponsors of residential housing or to persons of lower income for residential housing where the Agency has given approval prior to the initial making of the loan, or where there has been no such prior approval, upon such terms and conditions requiring the proceeds thereof to be used by such mortgage

lenders for the making of new mortgage loans to sponsors of residential housing or to persons of lower income for residential housing as the Agency may prescribe by regulation; provided, however, that any such purchase shall be made only upon the determination by the Agency that mortgage loans were not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions."

**Sec. 24.** Paragraph (4) of G.S. 122A-5 is hereby amended by deleting the entire paragraph.

**Sec. 25.** Paragraph (5) of G.S. 122A-5 is hereby amended by renumbering the same as "(4)".

**Sec. 26.** Paragraph (6) of G.S. 122A-5 is hereby amended by renumbering the same as "(5)".

**Sec. 27.** Paragraph (7) of G.S. 122A-5 is hereby amended by renumbering the same as "(6)" and revising said paragraph to read as follows:

"To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a loan of any type permitted by this Chapter;".

**Sec. 28.** Paragraph (8) of G.S. 122A-5 is hereby amended by renumbering the same as "(7)".

**Sec. 29.** Paragraph (9) of G.S. 122A-5 is hereby amended by renumbering the same as "(8)", and by deleting from the fourth and fifth lines the following: "construction loan, temporary loan,".

**Sec. 30.** Paragraph (10) of G.S. 122A-5 is hereby amended by renumbering the same as "(9)".

**Sec. 31.** Paragraph (11) of G.S. 122A-5 is hereby amended by renumbering the same as "(10)".

**Sec. 32.** Paragraph (12) of G.S. 122A-5 is hereby amended by renumbering the same as "(11)".

**Sec. 33.** Paragraph (13) of G.S. 122A-5 is hereby amended by renumbering the same as "(12)".

**Sec. 34.** Paragraph (14) of G.S. 122A-5 is hereby amended by renumbering the same as "(13)".

**Sec. 35.** Paragraph (15) of G.S. 122A-5 is hereby amended by renumbering the same as "(14)" and by revising said paragraph to read as follows:

"To service or contract for the servicing of mortgage loans and to make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Chapter, including contracts with any person, firm, corporation, governmental agency or other entity, and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the Agency to facilitate the purposes of this Chapter;".

**Sec. 36.** Paragraph (16) of G.S. 122A-5 is hereby amended by renumbering the same as "(15)" and by revising the same to read as follows:

"To receive, administer and comply with the conditions and requirements respecting any appropriation or any gift, grant or donation of any property or money, including the proceeds of general obligation bonds of the State;".

**Sec. 37.** Paragraph (17) of G.S. 122A-5 is hereby amended by renumbering the same as "(16)".

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**Sec. 38.** Paragraph (18) of G.S. 122A-5 is hereby amended by renumbering the same as "(17)".

**Sec. 39.** Paragraph (19) of G.S. 122A-5 is hereby amended by renumbering the same as "(18)".

**Sec. 40.** Paragraph (20) of G.S. 122A-5 is hereby amended by renumbering the same as "(19)" and by deleting the word "and" as the same appears immediately following the semicolon at the end thereof.

**Sec. 41.** Paragraph (21) of G.S. 122A-5 is hereby amended by renumbering the same as "(20)" and by changing the period at the end thereof to a semicolon.

**Sec. 42.** G.S. 122A-5 is hereby further amended by adding thereto a new paragraph to be numbered "(21)" and to read as follows:

"To purchase or to participate in the purchase and enter into commitments by itself or together with others for the purchase of federally insured securities; provided, however, that the Agency shall first determine that the proceeds of such securities will be utilized for the purpose of making new mortgage loans to sponsors of residential housing or to persons of lower income for residential housing, all as specified in regulations to be adopted by the Agency; and".

**Sec. 43.** G.S. 122A-5 is hereby further amended by adding thereto a new paragraph to be numbered "(22)" and to read as follows:

"To provide, or contract for the providing of, management and counseling services whenever, in the judgment of the Agency, no other satisfactory low income housing counseling service is available for occupants of rental projects for persons of lower income or for prospective homeowners of lower income; provided, however, that no such program shall be undertaken until the Agency shall have made a study of its feasibility and shall have determined that the undertaking of such program will not adversely affect other programs of the Agency".

**Sec. 44.** Chapter 122A of the General Statutes of North Carolina is hereby amended by adding thereto a new section to be numbered G.S. 122A-5.1 and to read as follows:

"§ 122A-5.1. *Rules and Regulations Governing Agency Activity.*—(a) The Agency shall from time to time adopt, modify or repeal rules and regulations governing the purchase of federally insured securities by the Agency and the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

- (1) Procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans or for the purchase of federally insured securities;
- (2) Limitations or restrictions as to the number of family units, location or other qualifications or characteristics of residences to be financed by mortgage loans and requirements as to the income limits of persons and families of lower income occupying such residences;
- (3) Restrictions as to the interest rates on mortgage loans or the return which may be realized by mortgage lenders on any mortgage loans or on the sale of federally insured securities to the Agency;
- (4) Requirements as to commitments by mortgage lenders with respect to the use of the proceeds of sale of any federally insured securities;
- (5) Schedules of any fees and charges necessary to provide for expenses and reserves of the Agency; and

- (6) Any other matters related to the duties and the exercise of the powers of the Agency to purchase and sell mortgage loans, or to purchase federally insured securities.

Such rules and regulations shall be designed to effectuate the general purposes of this Chapter and the following specific objectives: (i) the construction of decent, safe and sanitary residential housing at low prices or rentals which persons and families of lower income can afford; (ii) the rehabilitation of present lower income housing; (iii) increasing the supply of residential housing for persons and families of lower income affected by the spread of slum conditions and blight and for persons and families of lower income displaced by public action or natural disaster; (iv) the encouraging of private enterprise and investment to sponsor, build and rehabilitate residential housing for such persons and families to prevent the recurrence of slum conditions and blight and assist in their permanent elimination throughout the State; and (v) the restriction of the financial return and benefit to that necessary to protect against the realization by mortgage lenders of an excessive financial return or benefit as determined by prevailing market conditions.

(b) The interest rate or rates and other terms of federally insured securities or mortgage loans purchased from the proceeds of any issue of bonds of the Agency shall be at least sufficient to assure the payment of said bonds and the interest thereon as the same become due from the amounts received by the Agency in repayment of such federally insured securities or such loans and interest thereon.

(c) The Agency shall require as a condition of the purchase of federally insured securities from a mortgage lender and the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender that such mortgage lender shall on or prior to the 90th day (or such earlier day as shall be prescribed by rules and regulations of the Agency) following the receipt of the loan or sale proceeds have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make from such loan or sale proceeds, residential mortgage loans having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such prior loan and the Agency shall not purchase nor make commitment to purchase mortgage loans, federally insured securities or other obligations from a mortgage lender from which it has previously purchased mortgage loans or federally insured securities unless said mortgage lender has either restored or made commitments to restore to its portfolio of mortgage loans in the State, mortgage loans having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to either the proceeds of prior sale or the amount of prior loan to said mortgage lender and has provided evidence satisfactory to it of the making of such new mortgage loans."

**Sec. 45.** Chapter 122A of the General Statutes of North Carolina is hereby amended by adding thereto a new section to be numbered G.S. 122A-5.2 and to read as follows:

"§ 122A-5.2. *Mortgage insurance authority.*—(a) The Agency may upon application of a proposed mortgagee insure and make advance commitments to insure payments required by a loan for residential housing for persons of lower income upon such terms and conditions as the Agency may prescribe. Mortgage loans insured by the Agency under this Chapter may provide financing for

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related ancillary facilities to the extent permitted by applicable Agency regulations. Mortgage loans insured by the Agency under this Chapter shall be secured by a first mortgage.

The aggregate principal amount of all mortgages so insured by the Agency under this Chapter and outstanding at any one time shall not exceed ten times the average annual balance for the preceding calendar year of funds on deposit in the housing mortgage insurance fund, the creation of which is hereby authorized. The aggregate amount of principal obligations of all mortgages so insured shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from monies on deposit to the credit of the housing mortgage insurance fund. Any contract of insurance executed by the Agency under this section shall be conclusive evidence of eligibility for such mortgage insurance and the validity of any contract of insurance so executed or of an advance commitment to issue such shall be incontestable in the hands of a mortgagee from the date of execution of such contract or commitment, except for fraud or misrepresentation on the part of such mortgagee and, as to commitments to insure, noncompliance with the terms of the advance commitment or Agency regulations in force at the time of issuance of the advance commitment.

(b) For mortgage payments to be eligible for insurance under the provisions of this Chapter, the underlying mortgage loan shall: (1) Be one which is made and held by a mortgagee approved by the Agency as responsible and able to service the mortgage properly; (2) Not exceed (a) ninety percent of the estimated cost of the proposed housing if owned or to be owned by a profit-making sponsor or (b) one hundred percent of the estimated cost of such proposed housing if owned or to be owned by a nonprofit housing sponsor or, if owned by a person or family of lower income, in the case of a single family dwelling or condominium; (3) Have a maturity satisfactory to the Agency but in no case longer than eighty percent of the Corporation's estimate of the remaining useful life of said housing or 40 years from the date of the issuance of insurance, whichever is earlier; (4) Contain amortization provisions satisfactory to the Agency requiring periodic payments by the mortgagor not in excess of his ability to pay as determined by the Agency; (5) Be in such form and contain such terms and provisions with respect to maturity, property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, equitable and legal redemption rights, prepayment privileges and other matters as the Agency may prescribe.

(c) All applications for mortgage insurance shall be forwarded, together with an application fee prescribed by the Agency, to the executive director of the Agency. The Agency shall cause an investigation of the proposed housing to be made, review the application and the report of the investigation, and approve or deny the application. No application shall be approved unless the Agency finds that it is consistent with the purposes of this Chapter and further finds that the financing plan for the proposed housing is sound. The Agency shall notify the applicant and the proposed lender of its decision. Any such approval shall be conditioned upon payment to the Agency, within such reasonable time and after notification of approval as may be specified by the Agency, of the commitment fee prescribed by the Agency.

(d) The Agency shall fix mortgage insurance premiums for the insurance of mortgage payments under the provision of this Chapter. Such premiums shall be computed as a percentage of the principal of the mortgage outstanding at the beginning of each mortgage year, but shall not be more than one-half of one percent per year of such principal amount. The amount of premium need not be uniform for all insured loans. Such premiums shall be payable by mortgagors or mortgagees in such manner as prescribed by the Agency.

(e) In the event of default by the mortgagor, the mortgagee shall notify the Agency both of the default and the mortgagee's proposed course of action. When it appears feasible, the Agency may for a temporary period upon default or threatened default by the mortgagor authorize mortgage payments to be made by the Agency to the mortgagee which payments shall be repaid under such conditions as the Agency may prescribe. The Agency may also agree to revised terms of financing when such appear prudent. The mortgagee shall be entitled to receive the benefits of the insurance provided herein upon: (1) Any sale of the mortgaged property by court order in foreclosure or a sale with the consent of the Agency by the mortgagor or a subsequent owner of the property or by the mortgagee after foreclosure or acquisition by deed in lieu of foreclosure, provided all claims of the mortgagee against the mortgagor or others arising from the mortgage, foreclosure, or any deficiency judgment shall be assigned to the Agency without recourse except such claims as may have been released with the consent of the Agency; or (2) the expiration of six months after the mortgagee has taken title to the mortgaged property under judgment of strict foreclosure, foreclosure by sale or other judicial sale, or under a deed in lieu of foreclosure if during such period the mortgagee has made a bona fide attempt to sell the property, and thereafter conveys the property to the Agency with an assignment, without recourse, to the Agency of all claims of the mortgagee against the mortgagor or others arising out of the mortgage foreclosure, or deficiency judgment; or (3) the acceptance by the Agency of title to the property or an assignment of the mortgage, without recourse to the Agency, in the event the Agency determines it imprudent to proceed under (1) or (2) above. Upon the occurrence of either (1), (2) or (3) hereof, the obligation of the mortgagee to pay premium charges for insurance shall cease, and the Agency shall, within 30 days thereafter, pay to the mortgagee ninety-eight percent (98%) of the sum of (a) the then unpaid principal balance of the insured indebtedness, (b) the unpaid interest to the date of conveyance or assignment to the Agency, as the case may be, (c) the amount of all payments made by the mortgagee for which it has not been reimbursed for taxes, insurance, assessments and mortgage insurance premiums, and (d) such other necessary fees, costs or expenses of the mortgagee as may be approved by the Agency.

(f) Upon request of the mortgagee, the Agency may at any time, under such terms and conditions as it may prescribe, consent to the release of the mortgagor from his liability or consent to the release of parts of the property from the lien of the mortgage, or approve a substitute mortgagor or sale of the property or part thereof.

(g) No claim for the benefit of the insurance provided in this Chapter shall be accepted by the Agency except within one year after any sale or acquisition of title of the mortgaged premises described in subdivisions (1) or (2) of subparagraph (e) of this section.

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(h) There shall be paid into the housing mortgage insurance fund (1) all premiums received by the Agency for the granting of such mortgage insurance, (2) any monies or other assets received by the Agency as a result of default or delinquency on mortgage loans insured by the Agency, including any proceeds from the sale or lease of real property, (3) any monies appropriated and made available by the State for the purpose of such fund.”

**Sec. 46.** G.S. 122A-6 is hereby amended by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 47.** G.S. 122A-7 is hereby amended by deleting the entire section.

**Sec. 48.** G.S. 122A-8 is hereby amended by renumbering the same as G.S. 122A-7 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 49.** G.S. 122A-9 is hereby amended by renumbering the same as G.S. 122A-8 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”, and by deleting from the eighth line the following: “Construction loans, temporary loans.”.

**Sec. 50.** G.S. 122A-10 is hereby amended by renumbering the same as G.S. 122A-9 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 51.** G.S. 122A-11 is hereby amended by renumbering the same as G.S. 122A-10 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 52.** G.S. 122A-12 is hereby amended by renumbering the same as G.S. 122A-11 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 53.** G.S. 122A-13 is hereby amended by renumbering the same as G.S. 122A-12.

**Sec. 54.** G.S. 122A-14 is hereby amended by renumbering the same as G.S. 122A-13.

**Sec. 55.** G.S. 122A-15 is hereby amended by renumbering the same as G.S. 122A-14 and by deleting the word “Corporation” wherever the same appears and inserting in lieu thereof the word “Agency”.

**Sec. 56.** G.S. 122A-16 is hereby amended by renumbering the same as G.S. 122A-15 and by revising the same to read as follows:

“The Finance Committee of the House of Representatives and the Finance Committee of the Senate shall exercise continuing oversight of the Agency in order to assure that the Agency is effectively fulfilling its statutory purpose; provided, however, that nothing in this act shall be construed as required by the Agency to receive legislative approval for the exercise of any of the powers granted by this act. The Agency shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, State Treasurer, State Auditor, the aforementioned committees of the General Assembly, the Advisory Budget Commission and the Local Government Commission. Each such report shall set forth a complete operating and financial statement of the Agency during such year. The Agency shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available monies of the Agency.”

**Sec. 57.** G.S. 122A-17 is hereby amended by renumbering the same as G.S. 122A-16 and by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency".

**Sec. 58.** G.S. 122A-18 is hereby amended by renumbering the same as G.S. 122A-17 and by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency".

**Sec. 59.** G.S. 122A-19 is hereby amended by renumbering the same as G.S. 122A-18 and by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency".

**Sec. 60.** G.S. 122A-20 is hereby amended by renumbering the same as G.S. 122A-19 and by deleting the word "Corporation" wherever the same appears and inserting in lieu thereof the word "Agency".

**Sec. 61.** G.S. 122A-21 is hereby amended by renumbering the same as G.S. 122A-20.

**Sec. 62.** G.S. 122A-22 is hereby amended by renumbering the same as G.S. 122A-21.

**Sec. 63.** G.S. 122A-23 is hereby amended by renumbering the same as G.S. 122A-22.

**Sec. 64.** All appointments to the North Carolina Housing Finance Agency Board of Directors shall be made within 60 days of the ratification of this act.

**Sec. 65.** The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**Sec. 66.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

S. B. 1182

## CHAPTER 1297

AN ACT TO AMEND ARTICLE 13, CHAPTER 113 OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO ENFORCEMENT AUTHORITY OF INSPECTORS AND PROTECTORS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-136 is hereby amended by adding the following new subsections:

"(h) The refusal of any person to stop in obedience to explicit directions of an inspector or protector acting under the authority of this section is unlawful. A violation of this subsection (h) is punishable by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) or imprisonment of up to 30 days or both.

(i) It is unlawful to refuse to exhibit upon request any license, permit, tax receipt, certificate, or identification required to be carried by any law or regulation as to which inspectors and protectors have enforcement jurisdiction. It is unlawful to refuse to allow inspectors and protectors to inspect weapons, equipment, fish, or wildlife regulated by any law or regulation as to which inspectors and protectors have enforcement jurisdiction.

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(j) Nothing in this section authorizes searches within the curtilage of a dwelling or of the living quarters of a vessel in contravention of constitutional prohibitions against unreasonable searches and seizures.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1405

**CHAPTER 1298**

AN ACT TO AMEND G.S. 44A-2(c) TO EXTEND THE LIEN PERIOD IN FAVOR OF PERSONS ENGAGED IN THE BUSINESS OF BOARDING ANIMALS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44A-2(c) is hereby amended on lines 3, 4, and 5 by deleting the following words and figures: “and which become due and payable within 90 days preceding the mailing of notice of sale provided for in G.S. 44A-4”.

**Sec. 1.1.** No lien will arise from a contract entered into prior to March 27th, 1974.

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1464

**CHAPTER 1299**

AN ACT TO PROVIDE THAT HANDICAPPED APPLICANTS FOR EMPLOYMENT WITH THE STATE SHALL HAVE PREFERENCE OVER ABLE-BODIED APPLICANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-15.3, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding at the end thereof the following:

“It shall be the policy of this State to give positive emphasis to the recruitment, evaluation, and employment of physically handicapped persons in State government. To carry out the provisions of this section, the Office of State Personnel shall develop methods and programs to assist and encourage the departments, institutions, and agencies of State government in carrying out this policy and to provide for appropriate study and review of the employment of handicapped persons.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1534 CHAPTER 1300

AN ACT REQUIRING ALL OCCUPATIONAL LICENSING BOARDS, WHICH FINANCIALLY OPERATE ON THE LICENSING FEES CHARGED AND THAT OCCUPY STATE-OWNED OFFICE SPACE, TO PAY RENT TO THE STATE FOR THE OCCUPANCY OF SUCH SPACE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Rental of State-owned office space. Any occupational licensing board, which financially operates on the licensing fees charged and also occupies State-owned office space, shall pay rent, in a reasonable amount to be determined by the Governor, to the State for the occupancy of such space.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1535 CHAPTER 1301

AN ACT RELATING TO AUDITS OF OCCUPATIONAL LICENSING BOARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93B-4, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten as follows:

“§ 93B-4. The books and records of each occupational licensing board shall be audited annually by the State Auditor. The cost of all audits shall be paid out of the funds of the occupational licensing boards. One copy of the audit report of each of the boards shall be submitted by the State Auditor to the Legislative Services Office.

The State Auditor shall issue annually a report containing a summary of the financial operations of each board. The State Auditor shall submit copies of the annual summary of the occupational licensing boards to the Governor, the Lieutenant Governor, the President Pro Tem of the Senate, the Speaker of the House of Representatives and the Legislative Services Office.”

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1687                      CHAPTER 1302**

AN ACT TO PROVIDE THAT FUNDS OF OCCUPATIONAL LICENSING  
BOARDS ARE NOT USED FOR LOBBYING PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 93B of the General Statutes is hereby amended by adding a new section G.S. 93B-6 thereto to read as follows:

“§ 93B-6. *Use of funds for lobbying prohibited.*—Occupational licensing boards shall not use any funds to promote or oppose in any manner the passage by the General Assembly of any legislation.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1689                      CHAPTER 1303**

AN ACT TO AMEND CHAPTER 93B OF THE GENERAL STATUTES TO  
PROHIBIT AN INDIVIDUAL FROM BEING A MEMBER OF MORE  
THAN ONE OCCUPATIONAL LICENSING BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93B-5 is hereby amended by adding a new sentence at the end thereof to read as follows:

“No individual may be a member of more than one occupational licensing board at any one time.”

**Sec. 2.** Nothing in this act shall prohibit any person from serving as an ex officio member of any board.

**Sec. 3.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1868                      CHAPTER 1304**

AN ACT TO AMEND ARTICLE 2 OF CHAPTER 106 OF THE GENERAL  
STATUTES, THE FERTILIZER LAW OF 1947, SO AS TO PROVIDE  
THAT SUITS MAY BE BROUGHT AGAINST THE MANUFACTURER  
OF FERTILIZER FOR FALSE AND MISLEADING STATEMENTS  
MADE BY THE MANUFACTURER, OR HIS AGENTS OR  
REPRESENTATIVES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-50.7(e)4, as the same appears in Volume 3A of the General Statutes, is amended by striking the period at the end thereof and adding the following:

“or unless it shall appear to the Commissioner that the manufacturer of the fertilizer in question, or a representative, agent or employee of the manufacturer, has violated any provisions of G.S. 106-50.12.”

**Sec. 2.** This act shall not affect pending litigation.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1872

**CHAPTER 1305**

AN ACT TO REWRITE G.S. 106-454 RELATING TO THE CRIMINAL PENALTIES FOR CHARGING EXCESSIVE TOBACCO WAREHOUSE FEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-454, as the same appears in Volume 3A of the General Statutes and which reads as follows:

“The proprietor of each and every warehouse shall render to each seller of tobacco at his warehouse a bill plainly stating the amount charged for weighing and handling, the amount charged for auction fees, and the commission charged on such sale, and it shall be unlawful for any other charges or fees to be made or accepted. For each and every violation of the provisions of this article a penalty of ten dollars may be recovered by anyone injured thereby.”,

is rewritten to read as follows:

“The owner, operator, or person in charge of each warehouse shall render to each seller of tobacco at the warehouse a bill plainly stating the amount charged for weighing and handling, the amount charged for auction fees, and the commission charged on such sale, and it shall be unlawful for any other charge or fees to be made or accepted. Any person, firm, corporation, or any employee thereof, violating the provisions of this section shall be guilty of a misdemeanor and fined not less than one hundred dollars (\$100.00) nor more than two hundred and fifty dollars (\$250.00) and/or imprisoned not to exceed 30 days for the first offense, and for the second or additional offenses fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000) or imprisoned for not less than 30 days or more than six months, or both fined and imprisoned, in the discretion of the court.”

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 857

**CHAPTER 1306**

AN ACT TO CREATE A STATE LAND POLICY COUNCIL TO DEVELOP STATE POLICY WITH RESPECT TO LAND USE AND LAND MANAGEMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 143 of the General Statutes is amended by adding thereto a new Article as follows:

“Article 55.

“Land Policy Act.

“§ 143-483. *Short title.*—This act shall be known as the Land Policy Act of 1974.

“§ 143-484. *Findings, intent, and purpose.*—(a) Findings. The General Assembly hereby finds that:

(1) The land of North Carolina is a resource basic to the welfare of her people.

(2) A lack of coordination of governmental action; a lack of clearly stated, sound, and widely understood guidelines for planning; and a lack of systematic collection, classification, and utilization of information

regarding the land resource have led to inconsistencies in policy and inadequacies in planning for the present and future uses of the land resource.

- (3) Governmental agencies responsible for controlling land use and private and public users of the land resource are often unable to independently develop guidelines for land use practices which provide adequate and meaningful provision for future demands on the land resource, while allowing current needs to be met.
- (4) Systematic and sound decisions as to the location and nature of major public investments in key facilities cannot be made without a comprehensive State policy regarding the land resource.
- (5) Those affected by State land use policy and decisions must be given an opportunity for full participation in the policy and decision making process. Such a process must allow for the final implementation of policy by local governments. The State should take whatever steps necessary to encourage and assist local governments in meeting their obligation to control current uses and plan for future uses of the land resource.

(b) Intent and Purpose. The General Assembly declares that it is the intent of this act to undertake the continuing development and implementation of a State land use policy, incorporating environmental, esthetic, economic, social, and other factors so as to promote the public interest, to preserve and enhance environmental quality, to protect areas of natural beauty and historic sites, to encourage beneficial economic development, and to protect and promote the public health, safety, and welfare. Such policy shall serve as a guide for decision-making in State and federally assisted programs which affect land use, and shall provide a framework for the development of land use policies and programs by local governments. It is the purpose of this act to:

- (1) Promote patterns of land use which are in accord with a State Land Use Policy which encourages the wise and balanced use of the State's resources;
- (2) Establish a State policy to give local governments guidance and assistance in the establishment and implementation of local land planning and management programs so as to effectively meet their responsibilities for economically and environmentally sound land use management;
- (3) Establish a State Land Use Policy which seeks to provide essential public services equitably to all persons within the State and to assure that citizens shall have, consistent with sound principles of land resource use, maximum freedom and opportunity to live and conduct their activities in locations of their personal choice;
- (4) Condition the distribution of certain federal and State funds on meeting reasonable and flexible State requirements for basic land planning; such conditions to include a clear statement of the State's authority and responsibility for review of planning and management by local governments;
- (5) Develop and maintain coordination of all State programs having a land use impact, including joint planning and management of State lands with adjacent non-State lands, so as to ensure consistency with the purposes of this act;
- (6) Promote the development of systematic methods for the exchange of

land use, environmental, economic, and social information among all levels of government, and among agencies at all levels of government.

“§ 143-485. *Definitions.*—Unless the context otherwise requires, the following terms as used in this Article are defined as follows:

(1) ‘Areas of environmental concern’ means: those areas of this State where uncontrolled development, unregulated use, or other man-related activities could result in major or irreversible damage to important environmental, historic, cultural, scientific or scenic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life or property as a result of natural hazards, or could result in loss of continued long-range productivity in renewable resource areas.

(2) ‘Principal officer’ means the duly appointed or elected public official in responsible charge of a principal department of State government.

(3) ‘Key facilities’ means public facilities which tend to induce development and urbanization of more than local impact and includes, but is not limited to, major facilities for the development, generation, and transmission of energy, for communication, and for transportation.

(4) ‘Local Government’ means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of this Article.

(5) ‘New communities and large-scale developments’ means private development which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance.

(6) ‘Project of regional impact’ means land use, public development, and private development on government or nongovernmental lands for which there is a demonstrable impact affecting the interests of constituents of more than one local unit of government.

(7) ‘Region or regional’ means or refers to one or more of the official planning regions established pursuant to the laws of this State.

“§ 143-486. *North Carolina Land Policy Council.*—(a) Established. The General Assembly hereby establishes a council, advisory to the Governor, to be designated the North Carolina Land Policy Council, hereafter designated ‘the Council’.

(b) Composition and staff.

(1) The Council shall consist of 14 principal members, designated as follows:

- a. Eight members shall be the principal officers of the State Departments of
  1. Administration
  2. Agriculture
  3. Cultural Resources
  4. Commerce
  5. Natural and Economic Resources
  6. Revenue
  7. Human Resources
  8. Transportation
- b. Two members shall be the Lieutenant Governor and a member of the Senate selected by the Lieutenant Governor.
- c. Two members shall be the Speaker of the House of Representatives

and a member of the House selected by the Speaker.

- d. One member shall be an elected official selected by the North Carolina League of Municipalities and appointed by the Governor.
  - e. One member shall be an elected official selected by the North Carolina Association of County Commissioners and appointed by the Governor.
- (2) Only principal members shall have a vote on matters before the Council, but an alternate appointed by a principal member may participate fully in discussion and deliberations.
  - (3) The Council shall be housed administratively in the Department of Administration, with the Secretary of Administration as Chairman, and with such other officers and procedures as the Council deems necessary for the proper exercise of its responsibilities.
  - (4) Staff services to the Council shall be provided primarily by the Office of State Planning, and, in addition, all departments of State government shall furnish personnel, information and research capability as may be required by the Council in the exercise of its responsibilities.
- (c) Duties.
- (1) To assemble and analyze significant existing laws, policies and programs in State and local government as they pertain to or have substantial effect upon the use, management, development or conservation of all lands and waters, public and private, within the State of North Carolina.
  - (2) To define and cause to be prepared and periodically revised, a system of information and data concerning the land resources of the entire State, including, but not limited to, esthetic, economic, ecological, demographic, geologic, and physical conditions, both current and projected, as well as a continuing inventory of governmental and private needs and priorities for the use of land resources. All State agencies and units of local government including the register of deeds of each county shall make all pertinent data in their custody available to the Land Policy Council.
  - (3) To consider, and to consult with the federal government and relevant states on, the interstate aspects of land use issues of more than intrastate concern.
  - (4) To prepare, and revise on a continuing basis, an inventory of public and private institutional and financial resources available for land use planning and management within the State and of State and local programs, projects, and activities which have a regional impact of more than local concern.
  - (5) To establish a method for identifying new community and large-scale development and land use projects with regional impact.
  - (6) To prepare, in consultation with concerned State agencies and other recognized authorities, principles and guidelines for the systematic identification of areas of environmental concern.
  - (7) To provide technical assistance and training programs for State and local agency personnel concerned with the development and implementation of State and local land use programs.
  - (8) To establish a method for coordinating all State and local agency programs and services which significantly affect land use.
  - (9) To prepare, in conjunction with the Advisory Committee on Land

Policy as described in G.S. 143-487 of this act, and following procedures established by this act, a State Land Policy as defined in G.S. 143-488 of this act.

- (10) To prepare, in conjunction with the Advisory Committee on Land Policy as described in G.S. 143-487 of this act, and after consultation with the duly constituted and authorized planning agencies of local governments, and following procedures established by this act, a State Land Policy and State Land Classification System as defined further in this act.
- (11) To prepare and recommend to the General Assembly a system of valuation of property for tax purposes related to the range of public services available or to be made available to properties designated in each of the several land classifications.

(d) Hearings. The Council shall conduct such public hearings as it shall determine to be necessary or appropriate to the development of the State Land Policy and the State Land Classification System, provided only that there be no fewer than six such hearings held, two in each of the three major physiographic regions of the State. The Council shall give adequate public notice of each hearing at least 30 calendar days prior to the date of the hearing and shall consider all relevant statements and matters presented at hearings.

The Council shall designate the place and time of hearing and may adopt appropriate rules of procedure governing the conduct of the hearing, including the presentation of oral and written statements, and the form, content and method of giving notice of hearing.

(e) Acceptance and administration of federal or private funds. The Department of Administration shall have power and authority to accept, receive and administer, on behalf of the Council, any funds, gifts, bequests, or other financial assistance given, granted or provided by legislative appropriation, or under any federal act or acts or from any federal agency, or from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds to the extent not inconsistent with the laws of this State and the rules and regulations thereunder pertaining to land use planning and management. The Council shall have authority to formulate plans and projects for the approval of all funding agencies and institutions and to enter into such contracts and agreements as may be necessary for such purposes or to enter into joint agreements with any other agency or division of government for such purposes and to furnish such information as may be requested for any project or program related to or conducted pursuant to such plans and contracts. Such funds received by the Council pursuant to this provision shall be deposited in the State treasury to the account of the Council and shall remain in such account until used by the Council.

“§ 143-487. *Advisory Committee on Land Policy.*—(a) Established. The General Assembly hereby establishes a committee, advisory to the Governor, to be known as the North Carolina Advisory Committee on Land Policy, hereinafter designated ‘the Committee’.

(b) Composition and Staff.

(1) The Committee shall consist of 24 members, selected as follows:

(a) Twelve members shall be selected as follows:

1. Six shall be selected by the Governor from a list of elected officials recommended by the North Carolina Association of County

Commissioners. Three of these members shall be appointed for a term of two years, and three shall be appointed for a term of four years.

2. Six shall be selected by the Governor from a list of elected officials recommended by the North Carolina League of Municipalities. Three of these members shall be appointed for a term of two years, and three shall be appointed for a term of four years.

On expiration of initial terms, appointments shall be for a term of four years. In the event of a vacancy, the Governor shall appoint a successor of like qualifications to serve the remainder of the predecessor's term. No more than one of these members shall be appointed from any one of the 17 multi-county regions.

- (b) Twelve members shall be selected by the Governor to serve at his pleasure, and shall be representative of and actively engaged in:
  1. The operation of a farm in the eastern part of the State as a principal source of livelihood.
  2. The operation of a farm in the central part of the State as a principal source of livelihood.
  3. The operation of a farm in the western part of the State as a principal source of livelihood.
  4. Agribusiness.
  5. Forestry, other than the Forest Products Industry.
  6. Land Development.
  7. Home Building.
  8. Manufacturing or Extractive Industry.
  9. Parks and Recreation Management.
  10. The Tourist Industry.
  11. The Environmental and/or Health Sciences.
  12. Public Interest Organizations.
- (2) The Governor shall designate one of the Committee members as Chairman and one member as Vice-Chairman. The Committee may establish such other offices and procedures as it deems necessary for the proper exercise of its duties.
- (3) The Committee shall be housed administratively in the Department of Administration, and staff services for the Committee shall be the same as that for the Council.
- (c) Duties. The Committee may divide itself into those sub-committees as necessary to:
  - (1) Advise the Council on alternative policies and management techniques applicable to various land-use problems in the State.
  - (2) Assist the Council in securing full public participation in the process of determining State Land Policy through such procedures as open dissemination of proposals and alternatives, opportunity for public comments, information and education programs, open discussion of policy alternatives, and timely response to public comments.
  - (3) Assist and advise the Council in developing the State Land Classification System.
  - (4) To analyze, and advise the Council on, possible future problem areas in land-use practices in the State.
  - (5) To provide other assistance and advice requested by the Council.

“§ 143-488. *State Land Policy*.—(a) Content. The State Land Policy of North Carolina shall consist of the following:

- (1) Consistent, comprehensive, and coordinated principles, guidelines, and methods for the transaction of all matters and affairs by any agency of State or local government dealing with, or related to, the acquisition, ownership, use, management, and disposition, in part or whole, of title or interests in State-owned and other public lands;
- (2) A compilation of all appropriate State laws, appellate court decisions, and current administrative practices, policies and principles, as established by precedent or administrative order, when accepted and recognized as such by the Land Policy Council; and
- (3) Principles, guidelines and methods regarding specific land use and management problems identified by the Land Policy Council, which shall include, but not be limited to, the following:
  - a. Specific policies and principles for early acquisition of a reserve of lands to form a resource base from which needs for park lands, recreation sites, water reservoirs, key facilities, and other public needs may be met.
  - b. Specific policies and principles for the location, coordination, consolidation and joint use of utility rights-of-way, of whatever sort, whether above, below, or on the surface of the ground.
  - c. Specific policies regarding large-scale and special public projects and assemblage of land therefor.
  - d. Specific policies for determination and certification of areas of environmental concern.
  - e. Specific policies regarding new communities and large-scale developments on nongovernment lands.
  - f. Specific policies regarding projects of regional impact.
  - g. Other similar and related policies and directives as may be necessary to carry out the purpose of this act.

(b) Effect. Such policies, principles, directives and methods, when not inconsistent or in conflict with existing law or valid regulations promulgated pursuant thereto, shall guide and determine the administrative procedures, findings, decisions and objectives of all agencies of State and local government with regard to acquisition, management, and disposition of public lands and interests therein and the regulation of private lands involved in or affected by areas of environmental concern, new communities, large-scale developments and projects of regional impact.

(c) Procedures.

- (1) Within two years after the effective date of this act, the Council and Committee, working jointly and in consultation with elected and appointed officials of local government, shall prepare and present to the Governor recommendations for a State Land Policy and the legislative action needed to fully implement that policy.
- (2) At the next scheduled session of the General Assembly after the Council and Committee have presented their recommendations, the Governor shall submit to the General Assembly a proposed State Land Policy and implementing legislation.

“§ 143-489. *State Land Classification System*.—(a) Purpose. Within two years following the effective date of this act, the North Carolina Land Policy

Council shall develop a State Land Classification System, which shall include comprehensive guidelines and policies and a method for the classification of all lands in the State for the purposes of:

- (1) Providing to State and local governmental agencies a system for achieving the stated purposes of this act.
- (2) Promoting the orderly growth and development of the State in a manner consistent with the wise use and conservation of the land resources.
- (3) Assuring that the use and development of land in areas of environmental concern within the State is not inconsistent with the State Land Policy.
- (4) Assuring that the use of land for key facilities, new communities, and large-scale developments, or in areas which are or may be impacted by key facilities, new communities, and large-scale developments, is not inconsistent with the State Land Policy.

(b) Criteria for classification. The Council shall develop and adopt as a part of the classification system no fewer than four nor more than eight classifications which recognize all lands as a basic social and natural resource and which provide for the full range of private and public purposes in the use and conservation of the land resource. Emphasis shall be given to a harmonious relationship among the use potentials of the land, the physical and fiscal feasibility of providing necessary public services, and other facilities and social services. Areas of environmental concern, key facilities, projects of regional impact, new communities, and large-scale developments shall be recognized and made a part of the Land Classification System in order to further the stated purposes of this act.

(c) Basis for land classification. Full consideration shall be given, but shall not be limited to, the following aspects and characteristics of the lands of the State:

- (1) Topographic features such as land elevations and gradients.
- (2) Surface and underground waters, natural or artificial.
- (3) Geological, chemical, mineral and physical characteristics of the land.
- (4) The existing or potential utility of lands and sites having intrinsic historic, ecological, recreational, scenic or esthetic values or virtues.
- (5) The availability or potential availability of public services, including key facilities, health, education, and other community facilities and social services.
- (6) Areas of environmental concern, existing or potential key facilities, projects of regional impact, new communities, and large-scale development.

(d) Content. The State Land Classification System shall include, but specifically is not limited to, the following:

- (1) Concise and explicit descriptions of each of the classification categories.
- (2) Guidelines and procedures for the preparation of official land-use plans by the land planning agencies of local government, including a procedure for review by an appropriate State agency for sufficiency and consistency with the provisions of this act, and a procedure for assembling local plans into regional plans.
- (3) Rules and procedures for land reclassification together with an appellate procedure for property owners and other affected individuals, including officers of any level of government.

(e) Procedures. No later than two years from the effective date of this act, the following actions shall be accomplished:

- (1) The Council shall prepare, and, with the concurrence of the Governor, submit to duly constituted official planning agencies designated to represent each of the local governments in the State, a proposal for adoption of a Land Classification System consistent with the provisions of this act. Such a proposal shall include:
  - a. Guidelines for the implementation of the Land Classification System by local governments.
  - b. Procedures to meet a goal of complete implementation and application of the Land Classification System to all lands within the State by January 1, 1979.
  - c. Recommendations for legislative action to establish any necessary administrative authority within State government for the proper and uniform administration of the Land Classification System throughout the State.
  - d. Recommendations for the maximum degree of participation in land use planning and land classification by the planning agencies duly constituted and authorized by local governments.
  - e. Recommendations for any additional legislative action needed to assist and support local governments and State agencies in achieving more effective plans for the growth and development of the State, and the conservation and management of its land resources.
- (2) The designated planning agencies shall be allowed ninety calendar days to review the proposal and to submit comments to the Council. The Council shall give full consideration to all comments, particularly suggested revisions, and shall incorporate those revisions suggested by a majority of the planning agencies submitting comments into an amended proposal which shall be transmitted to the Governor for submission to the General Assembly at its next scheduled session, for legislative action necessary for the adoption of the Land Classification System and the implementation of that system at the county level.

**Sec. 2.** G.S. 143-490 through G.S. 143-494 is reserved for future codification.

**Sec. 3.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**Sec. 4.** Members of the Land Policy Council or the Advisory Committee on Land Policy who are not otherwise State employees shall receive per diem and necessary travel and subsistence expenses in accordance with the provision of G.S. 138-5.

**Sec. 5.** Protection of rights. Nothing in this act authorizes any governmental agency to adopt a rule or regulation or issue any order that constitutes a taking of property in violation of the constitution of this State or of the United States, without payment of full compensation.

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**Sec. 6.** Interpretation. It is the intention of the General Assembly that this act be interpreted consistently with, and administered in coordination with, the Coastal Area Management Act of 1974.

**Sec. 7.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1044

**CHAPTER 1307**

AN ACT TO AMEND CHAPTER 148 OF THE GENERAL STATUTES TO ESTABLISH AN INMATE GRIEVANCE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 148 of the General Statutes is hereby amended by adding a new Article, to be numbered Article 11, which shall read as follows:

“Article 11.

“Inmate Grievance Commission.

“§ 148-96. *Commission established; appointment and terms of members; chairman, vacancies; compensation.*—The Inmate Grievance Commission is established as a separate agency within the Department of Social Rehabilitation and Control. It shall consist of five members appointed by the Governor from a list of 10 persons recommended by the Council of the North Carolina State Bar. Of the five members so appointed, not less than two shall be attorneys admitted to practice law in the State of North Carolina and not less than two of the remaining three members shall be persons of knowledge and experience in one or more of the fields under the jurisdiction of the Secretary of Social Rehabilitation and Control. Of the members initially appointed, two shall be for a term of four years, one shall be for a term of three years, and one shall be for a term of two years and one shall be for a term of one year. Thereafter, all appointments shall be for a term of four years. The Governor shall designate the chairman from time to time. The Governor, with the advice of the Council of the North Carolina State Bar, shall fill any vacancy which occurs before the expiration of a term for the balance of the term so remaining. Each member of the Commission shall receive per diem and travel expenses as authorized for members of State commissions under G.S. 138-5.

“§ 148-97. *Appointment and salary of executive director, hearing examiners, other personnel.*—(a) The Commission, with the approval of the Governor, shall appoint an Executive Director of the Commission who shall serve at the pleasure of the Commission, and who shall be subject to the State Personnel Act.

(b) Upon the request of the Executive Director with the approval of the Commission, the Secretary of the Department of Social Rehabilitation and Control shall authorize the appointment by the Executive Director of hearing examiners in such numbers as may be necessary for the efficient administration of the powers and duties of the Commission. Hearing examiners shall serve at the pleasure of the Commission and shall be subject to the State Personnel Act.

(c) The Secretary of the Department of Social Rehabilitation and Control shall provide the Commission and hearing examiners with such investigative, secretarial and clerical employees as may be necessary for the efficient administration of the powers and duties of the Commission. Said employees shall be subject to the State Personnel Act.

“§ 148-98. *Removal of members.*—The Governor may remove any member of the Commission for one or more of the following reasons:

- (1) Conviction of a crime involving moral turpitude or of any criminal offense the effect of which is to prevent or interfere with the performance of Commission duties.
- (2) Failure to regularly attend meetings of the Commission.
- (3) Failure to carry out duties assigned by the Commission or its chairman.
- (4) Acceptance of another office or the conduct of other business conflicting with or tending to conflict with the performance of Commission duties.
- (5) Any other ground which, under law, necessitates or justifies the removal of a State employee.

“§ 148-99. *Submission of grievance or complaint.*—Any person confined to a facility within the department of the Commissioner of Correction, or otherwise in the custody of the Commissioner of Correction, who has any grievance or complaint against any officials or employees of the Department of Correction, may submit such grievance or complaint to the Inmate Grievance Commission within such time and in such manner as prescribed by regulations promulgated by the Commission. If, and to the extent that, the Department of Correction has a grievance or complaint procedure applicable to an inmate's particular grievance or complaint, and if the Inmate Grievance Commission deems such procedure reasonable and fair, the Commission shall by regulations require that such procedure be exhausted prior to the submission of the grievance or complaint to the Commission.

“§ 148-100. *Preliminary review.*—When a grievance or complaint is submitted to the Inmate Grievance Commission, the Commission, or any member thereof or the Executive Director, if so provided by the Commission's regulations, shall preliminarily review the grievance or complaint. If upon such preliminary review the grievance or complaint is determined to be on its face wholly lacking in merit, it may be dismissed by the reviewing commissioners or commissioner or Executive Director as the case may be, without a hearing or without specific findings of fact. If, after the preliminary review, it is determined that the nature of the grievance or complaint is outside the scope of authority of the Commission, the complaint shall be dismissed with recommendation as to how the inmate should proceed. Such order of dismissal shall be promptly forwarded to the complainant and shall constitute the final decision of the Secretary of the Department of Social Rehabilitation and Control for purposes of any judicial review.

“§ 148-101. *Hearing and disposition by Commission; review by Secretary of Department of Social Rehabilitation and Control.*—Whenever, after the preliminary review provided for in G.S. 148-100, a grievance or complaint is found to be on its face not wholly lacking in merit, the Commission shall hold, as promptly as practicable, a hearing on the grievance or complaint. At least three members of the Commission shall sit at any hearing, and decisions shall be by a majority of those sitting. A record of the testimony presented at the hearing may be kept, according to the rules and regulations promulgated by the Commission. The Commission's decision shall be issued in the form of an order which shall include a statement of the findings of fact, the Commission's conclusions and its disposition of the grievance or complaint. The types of disposition shall be as follows:

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(1) If after the hearing, the Commission finds in its order that the grievance or complaint is wholly lacking in merit and should be dismissed, such an order of dismissal shall be promptly forwarded to the complainant, and for the purpose of any judicial review, shall constitute the final decision of the Secretary of the Department of Social Rehabilitation and Control.

(2) However, if after the hearing, the Commission in its order finds that the inmate's grievance or complaint was in whole or in part meritorious, such order shall be promptly forwarded to the Secretary of the Department of Social Rehabilitation and Control. Within 15 days of the receipt of such an order, the Secretary, by order, shall affirm the order of the Commission, or shall reverse or modify the order if he disagrees with the findings and conclusions of the Commission. The Secretary shall order that the appropriate official of the facility in question accept, in whole or in part, the recommendation of the Commission or the Secretary may take whatever action he deems appropriate in light of the Commission's findings. The order of the Secretary shall be promptly forwarded to the complainant, and for the purpose of judicial review, the Secretary's order shall be final.

“§ 148-102. *Hearing by examiner; review; disposition.*—Whenever, after the preliminary review provided for in G.S. 148-100, a grievance or complaint is found to be on its face not wholly lacking in merit, and if hearing examiners are utilized, the Executive Director may designate an examiner to conduct a hearing as promptly as practicable. The examiner shall record the testimony presented at the hearing in accordance with the rules and regulations of the Commission. After the hearing, the examiner shall set forth, in the form of a recommendation, his findings of facts and conclusions. The examiner's recommendation shall be forwarded to the Commission. At least three members of the Commission shall review the record accumulated and assembled by the examiner and shall, within 30 days after the receipt of the recommendation, by majority vote, adopt, modify or reject it. The reviewing Commissioners may also remand the grievance or complaint to the hearing examiner, or another examiner, for further proceedings. Disposition thereafter shall be in accordance with the types of disposition set forth in G.S. 148-101.

“§ 148-103. *Access to documentary evidence; subpoenas; oaths and affirmations.*—The Commission, Executive Director, commissioner or examiner, with the approval of the Secretary of the Department of Social Rehabilitation and Control, shall at all reasonable times have access to, for the purposes of examination, and the right to copy, any documentary evidence of any person or institution being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The presiding commissioner or examiner at a hearing may administer oaths and affirmations.

“§ 148-104. *Right of inmate to appear at hearing; opportunity to call witnesses; representation.*—The complaining inmate shall have the right to appear at a hearing before the Commission or examiner and shall have the opportunity to call a witness, or a reasonable number of witnesses, depending upon the circumstances and the nature of the complaint, subject to the discretion of the Commission or examiner as to the relevancy of the testimony, questions and the number of witnesses sought to be called. The inmate shall have a reasonable opportunity to question any witnesses who testify at the

hearing. Such rights of the inmate shall not be unreasonably withheld or restricted by the Commission or examiner. The inmate may, if he wishes, be represented by an employee of the Department of Correction. The rules of evidence as applied in the superior and district court divisions of the General Court of Justice need not be followed.

“§ 148-105. *Record of complaints.*—A record shall be kept of all complaints and the dispositions thereof.

“§ 148-106. *Conduct of hearing at institutions.*—For the performance of its duties, the Commission or examiner shall conduct hearings at the facilities under the supervision and control of the Commissioner of Correction.

“§ 148-107. *Rules and regulations.*—The Commission shall have the power to adopt rules and regulations for the conduct of its proceedings as provided for in this Article.

“§ 148-108. *Judicial review.*—No court shall entertain an inmate’s grievance or complaint within the jurisdiction of the Inmate Grievance Commission unless and until the complainant has exhausted the remedies provided in this section. Upon the final decision of the Secretary of the Department of Social Rehabilitation and Control, the complainant shall be entitled to judicial review thereof. Proceedings for review shall be instituted in the General Court of Justice of Wake County, Superior Court Division. Review by the court shall be on the record of the proceedings before the Commission and the Secretary’s order, if any, pursuant to such proceedings and shall be limited to a determination of whether there was a substantial basis to support the action or ruling of the Secretary and whether there was a violation of any right of the inmate protected by federal or State constitutional requirements or laws. No judicial review order or judgment provided for in this section shall have the effect of res judicata or collateral estoppel in any action brought by an inmate in a United States District Court.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**S. B. 1229 CHAPTER 1308**

**AN ACT TO AMEND THE WORKMEN’S COMPENSATION ACT REGARDING THE DURATION OF BENEFITS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-29 is hereby amended by striking out the words “during not more than 400 weeks from the date of the injury, provided that the total amount of compensation paid shall not exceed thirty-two thousand five hundred dollars (\$32,500)” from lines 7 through 9 of such section.

**Sec. 2.** G.S. 97-29 is hereby amended by striking out the second paragraph of such section in its entirety and by substituting in lieu thereof the following:

“In cases of total and permanent disability, compensation, including reasonable and necessary nursing services, medicines, sick travel, medical, hospital, and other treatment or care or rehabilitative services shall be paid for by the employer during the lifetime of the injured employee. If death results from the injury then the employer shall pay compensation in accordance with the provisions of G.S. 97-38.”

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**Sec. 3.** G.S. 97-38 is hereby amended by striking out the words “for a period of 350 weeks from the date of the accident” from lines 7 and 8 of such section.

**Sec. 4.** G.S. 97-38 is hereby amended by striking out “, but shall not continue more than 350 weeks from the date of the injury.” as the same appears in lines 43 and 44 of such section and by inserting in lieu thereof a period and a new sentence as follows:

“Compensation payments due on account of death shall be paid for a period of 400 weeks from the date of the death of the employee; provided, however, after said 400-week period in case of a widow or widower who is unable to support herself or himself because of physical or mental disability as of the date of death of the employee, compensation payments shall continue during her or his lifetime or until remarriage and compensation payments due a dependent child shall be continued until such child reaches the age of 18.”

**Sec. 5.** G.S. 97-41 is hereby repealed.

**Sec. 6.** G.S. 97-61.6 is hereby amended by striking out the words “equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wage, but not more than eighty dollars (\$80.00), nor less than twenty dollars (\$20.00), a week; and in no case shall the period covered by such compensation be greater than 400 weeks, nor shall the total amount of all compensation exceed thirty-two thousand five hundred dollars (\$32,500)” from lines 10 through 15 of such section and by substituting in lieu thereof the words “in accordance with G.S. 97-29”.

**Sec. 7.** G.S. 97-61.6 is hereby amended by striking out the words and punctuation “, by one of the methods set forth in G.S. 97-38 a total compensation which, when added to the payments already made for partial or total disability to time of death, shall not exceed thirty-two thousand five hundred dollars (\$32,500) including burial expenses” from lines 30 through 33 of such section and by substituting in lieu thereof the words “compensation in accordance with G.S. 97-38”.

**Sec. 8.** This act shall become effective on July 1, 1975, and shall only apply to cases arising on or after July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## S. B. 1489

## CHAPTER 1309

AN ACT TO AMEND SECTION 1 OF CHAPTER 1015 OF THE 1973 SESSION LAWS BY ADDING CHAIRMAN AND VICE-CHAIRMAN TO THE LIST OF CORPORATE OFFICERS NAMED THEREIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 1 of Chapter 1015 of the 1973 Session Laws is hereby amended by inserting the words “chairman or vice-chairman” after the words “assistant trust officer” and before the words “of such corporation” on line 10 of the ratified bill.

**Sec. 2.** G.S. 47-41 is hereby further amended by adding a new paragraph at the end thereof to read as follows:

“All deeds and other conveyances heretofore executed by any of the aforementioned corporate officers are hereby validated to the extent that such

deeds or other conveyances were otherwise properly executed, probated, and recorded.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**S. B. 1153 CHAPTER 1310**

**AN ACT TO PROVIDE CREDIT FOR LOCAL GOVERNMENTAL EMPLOYEES AS RECOMMENDED BY THE INTERIM APPROPRIATIONS SUBCOMMITTEE ON RETIREMENT SYSTEMS STUDY AS DIRECTED BY RESOLUTION 91 RATIFIED MAY 18, 1973.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-26(a), as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new paragraph at the end thereof to read as follows:

“Notwithstanding any other provision of this Chapter, members not otherwise allowed service credit for service in the armed forces of the United States may, upon completion of 10 years of membership service, purchase such service credit by paying in a total lump sum an amount, based on the compensation the member earned when he first entered membership and the employee contribution rate at that time, with sufficient interest added thereto so as to equal one half the cost of allowing such service, plus a fee to cover expense of handling payment to be determined by the Board of Trustees and assessed the member at the time of payment; provided that credit will be allowed only for the initial period of active duty in the armed forces of the United States up to the time the member was first eligible to be separated or released therefrom, and subsequent periods of such active duty as required by the armed forces of the United States up to the date of first eligibility for separation or release therefrom; and further provided that the member submit satisfactory evidence of the service claimed and that service credit be allowed only for that period of active service in the armed forces of the United States not creditable in any other retirement system, except the National Guard or any reserve component of the armed forces of the United States. These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of a member is made. The provisions of this paragraph shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System provided that such agreement is entered into prior to July 1, 1975.”

**Sec. 2.** G.S. 128-26, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (i) to read as follows:

“(i) Notwithstanding any other provision of this Chapter, any person who withdrew his contributions in accordance with the provisions of G.S. 128-27(f) or G.S. 135-5(f) and who subsequently returns to service may, upon completion of 10 years of membership service, repay in a total lump sum any and all of the

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accumulated contributions previously withdrawn with sufficient interest added thereto to cover one half of the cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and receive credit for the service forfeited at time of withdrawal(s), provided that he left service prior to July 1, 1975. Any person who leaves service after June 30, 1975, and who withdraws his contributions in accordance with G.S. 128-27(f) or G.S. 135-5(f) and who subsequently returns to service may, upon completion of 10 years of membership service, repay in a total lump sum any and all of the accumulated contributions previously withdrawn with sufficient interest added thereto to cover the full cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and receive credit for the service forfeited at time of withdrawal(s). These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of a member is made. The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System provided that such agreement is entered into prior to July 1, 1975."

**Sec. 3.** G.S. 128-26, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (j) to read as follows:

"(j) Notwithstanding any other provision of this Chapter, any member may, upon completion of 10 years of current membership service, purchase credit for service previously rendered to any state, territory or other governmental subdivision of the United States other than this State at the rate of one year of out-of-state service for each two years of service in this State with a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this system. Credit will be allowed only if the member was not vested at time of separation and the service was not creditable after separation or withdrawal in any other public retirement system and only if no benefit is allowable in another public retirement system as a result of such service. Payment shall be permitted only on a total lump sum an amount, based on the compensation the member earned when he first entered membership and the employee contribution rate at that time and shall be equal to the full cost of providing credit for such service plus a fee to cover expense of handling which shall be determined by the Board of Trustees. These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of an individual is made. The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System provided that such agreement is entered into prior to July 1, 1975."

**Sec. 4.** All repayments must be made within three years after the member first becomes eligible to make such repayment.

**Sec. 5.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## S. B. 1154 CHAPTER 1311

AN ACT TO PROVIDE CREDIT FOR TEACHERS AND STATE EMPLOYEES AS RECOMMENDED BY THE INTERIM APPROPRIATIONS SUBCOMMITTEE ON RETIREMENT SYSTEMS STUDY AS DIRECTED BY RESOLUTION 91 RATIFIED MAY 18, 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-4(f), as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subdivision (6) to read as follows:

“(6) Notwithstanding any other provision of this Chapter, teachers and other State employees not otherwise allowed service credit for service in the armed forces of the United States may, upon completion of 10 years of membership service, purchase such service credit by paying in a total lump sum an amount, based on the compensation the member earned when he first entered membership and the employee contribution rate at that time, with sufficient interest added thereto so as to equal one half the cost of allowing such service, plus a fee to cover expense of handling payment to be determined by the Board of Trustees and assessed the member at the time of payment; provided that credit will be allowed only for the initial period of active duty in the armed forces of the United States up to the time the member was first eligible to be separated or released therefrom, and subsequent periods of such active duty as required by the armed forces of the United States up to the date of first eligibility for separation or release therefrom; and further provided that the member submit satisfactory evidence of the service claimed and that service credit be allowed only for that period of active service in the armed forces of the United States not creditable in any other retirement system, except the National Guard or any reserve component of the armed forces of the United States. These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of a member is made.”

**Sec. 2.** G.S. 135-4, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (k) to read as follows:

“(k) Notwithstanding any other provision of this Chapter, any person who withdrew his contributions in accordance with the provisions of G.S. 128-27(f) or G.S. 135-5(f) and who subsequently returns to service may, upon completion of 10 years of membership service, repay in a total lump sum any and all of the accumulated contributions previously withdrawn with sufficient interest added thereto to cover one half of the cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and receive credit for the service forfeited at time of withdrawal(s), provided that he left service prior to July 1, 1974. Any person who leaves service after June 30, 1974, and who withdraws his contributions in accordance with G.S.

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128-27(f) or G.S. 135-5(f) and who subsequently returns to service may, upon completion of 10 years of membership service, repay in a total lump sum any and all of the accumulated contributions previously withdrawn with sufficient interest added thereto to cover the full cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and receive credit for the service forfeited at time of withdrawal(s). These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of a member is made.”

**Sec. 3.** G.S. 135-4, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (1) to read as follows:

“(1) Notwithstanding any other provision of this Chapter, any member may, upon completion of 10 years of current membership service, purchase credit for service previously rendered to any state, territory or other governmental subdivision of the United States other than this State at the rate of one year of out-of-state service for each two years of service in this State with a maximum allowable of 10 years of out-of-state service. Such service is limited to full-time service which would be allowable under the laws governing this system. Credit will be allowed only if the member was not vested at time of separation and the service was not creditable after separation or withdrawal in any other public retirement system and only if no benefit is allowable in another public retirement system as a result of such service. Payment shall be permitted only on a total lump sum, an amount based on the compensation the member earned when he first entered membership and the employee contribution rate at that time and shall be equal to the full cost of providing credit for such service plus a fee to cover expense of handling which shall be determined by the Board of Trustees. These provisions shall apply equally to retired members who had attained 10 years of membership service prior to retirement. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of an individual is made.”

**Sec. 4.** The employer portion of the annual cost to fund the provisions of this act shall be paid by the employer based on the employer contribution rate as determined by the actuary and no cost shall be paid from funds now held by the Retirement System.

**Sec. 5.** All repayments must be made within three years after the member first becomes eligible to make such repayment.

**Sec. 6.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1155

**CHAPTER 1312**

AN ACT TO PROVIDE INCREASED DISABILITY AND COST-OF-LIVING BENEFITS TO RETIRED MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AS RECOMMENDED BY THE INTERIM APPROPRIATIONS SUBCOMMITTEE ON RETIREMENT SYSTEMS STUDY AS DIRECTED BY RESOLUTION 91 RATIFIED MAY 18, 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-5, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (s) to read as follows:

“(s) Increases in Benefits to Those Persons on Disability Retirement Who Were Retired Prior to July 1, 1971. From and after July 1, 1974, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1963, shall be increased by one percent (1%) thereof for each year by which the member retired prior to the age of 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1963, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1974, have been increased to the extent provided for in the preceding subsection (o).”

**Sec. 2.** G.S. 135-5, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (t) to read as follows:

“(t) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1973, which shall become effective on July 1, 1974, as otherwise provided in G.S. 135-5(o), shall be the current maximum four percent (4%) plus an additional two percent (2%) to a total of six percent (6%) for the year 1974 only. The provisions of this paragraph shall apply also to the allowance of a surviving annuitant of a beneficiary.”

**Sec. 3.** The employer portion of the annual cost to fund the provisions of this act shall be paid by the employer based on the employer contribution rate as determined by the actuary and no cost shall be paid from funds now held by the Retirement System.

**Sec. 4.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1156

**CHAPTER 1313**

AN ACT TO PROVIDE INCREASED DISABILITY AND COST-OF-LIVING BENEFITS TO RETIRED MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AS RECOMMENDED BY THE INTERIM APPROPRIATIONS SUBCOMMITTEE ON RETIREMENT SYSTEMS STUDY AS DIRECTED BY RESOLUTION 91 RATIFIED MAY 18, 1973.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 128-27, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (p) to read as follows:

“(p) Increases in Benefits to Those Persons on Disability Retirement Who Were Retired Prior to July 1, 1971. From and after July 1, 1974, the monthly benefits to members who commenced receiving disability benefits prior to July 1, 1965, shall be increased by one percent (1%) thereof for each year by which the member retired prior to the age of 65 years; the monthly benefits to members who commenced receiving disability benefits after June 30, 1965, and before July 1, 1971, shall be increased by five percent (5%) thereof. These increases shall be calculated before monthly retirement allowances as of June 30, 1974, have been increased to the extent provided for in the preceding subsection (k).”

**Sec. 2.** G.S. 128-27, as the same appears in the 1973 Cumulative Supplement to the General Statutes, is hereby amended by the addition of a new subsection (q) to read as follows:

“(q) Notwithstanding any of the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1973, which shall become effective on July 1, 1974, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional two percent (2%) to a total of six percent (6%) for the year 1974 only. The provisions of this paragraph shall apply also to the allowance of a surviving annuitant of a beneficiary.”

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1246

**CHAPTER 1314**

AN ACT TO PROVIDE FUNDS TO AID IN THE DEVELOPMENT OF HOME HEALTH AGENCIES.

Whereas, home health is defined as the provision of physician-directed nursing, rehabilitative, social and therapy services on a part-time or intermittent basis to a homebound individual in his place of residence by personnel employed by a certified home health agency; and

Whereas, the purpose of home health services is to provide the vital, community-level link in the health care continuum which is intended to promote and maintain health as well as to rehabilitate the patient to his maximum level of physical potential and/or to minimize the effects of illness and disability; and

Whereas, it has been demonstrated that the availability of home care services substantially reduces the length of hospitalization for patients of all ages with all types of illnesses; and

Whereas, in many instances home health services represent an effective, efficient and highly acceptable alternative to in-patient hospital, extended care facility or other type of institutional care; and

Whereas, there are now 52 certified home health agencies serving the residents of 65 North Carolina counties; and the residents of the remaining 35 North Carolina counties do not now have home health services available to them; and the 52 certified home health agencies which are now functioning received federal source seed monies which aided them financially during their early developmental stages; and

Whereas, it is anticipated that additional seed monies will not be available through federal funding; and the availability of State funding would facilitate the development of new home health agencies as well as allow desirable and needed expansion of services in existing home health programs; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund to the Department of Human Resources for fiscal year 1974-75 the sum of eighty thousand dollars (\$80,000) for the purpose of assisting in the development of home health agencies in counties where such agencies do not exist.

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**S. B. 131                      CHAPTER 1315**

**AN ACT TO AUTHORIZE THE EXERCISE OF JURISDICTION OVER MARINE RESOURCES IN THE ATLANTIC OCEAN.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 13, Chapter 113 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 113-134.1. *Jurisdiction over Marine Resources in Atlantic Ocean.*—The State of North Carolina shall exercise all such jurisdiction, it possesses under the State Constitution, necessary for the maintenance, preservation and protection of all marine fisheries resources from their inland reaches to a line drawn parallel to the entire coastline at a distance of 200 miles or where the water depth reaches 100 fathoms, whichever is greater. The Department of Natural and Economic Resources is hereby given the authority to promulgate the rules and regulations necessary to carry out the intent of this subsection; provided, however, that no such rule or regulation shall become effective until it has been approved by the General Assembly. Such rules and regulations shall be designed to prevent substantial depletion or damaging of the various marine fisheries resources. Any violation of the rules and regulations promulgated under the authority of this subsection shall constitute a misdemeanor, punishable by imprisonment not to exceed two years, or by a fine not to exceed one thousand dollars (\$1,000) or by both such fine and imprisonment. The rules and regulations adopted by the Department of Natural and Economic Resources pursuant to this subsection shall be enforced by the Fisheries Inspectors, in the

same manner and with the same authority vested in them by Chapter 113 of the General Statutes.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 499

**CHAPTER 1316**

AN ACT TO AMEND UNIFORM COMMERCIAL CODE FILING FEES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 25-9-403(5) of the North Carolina General Statutes is amended to read as follows:

“(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be four dollars (\$4.00) for an approved statutory form statement as prescribed in G.S. 25-9-402 when printed on a standard size form approved by the Secretary of State, and for all other statements, a five dollar (\$5.00) minimum charge for up to and including three pages and one dollar (\$1.00) per page for all over three pages.”

**Sec. 2.** G.S. 25-9-404(1) of the North Carolina General Statutes is amended to read as follows:

“(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be three dollars (\$3.00) when submitted on a standard size form approved by the Secretary of State, and for all other assignments or statements thereof, a four dollar (\$4.00) minimum charge for up to and including three pages and one dollar (\$1.00) per page for all over three pages. If the affected secured party fails to send such a termination statement within 10 days after proper demand therefor, he shall be liable to the debtor for one hundred dollars (\$100.00) and in addition for any loss caused to the debtor by such failure.”

**Sec. 3.** G.S. 25-9-404(3) is repealed.

**Sec. 4.** G.S. 25-9-405(1) of the North Carolina General Statutes is amended to read as follows:

“(1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself, or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in G.S. 25-9-403(4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be four dollars (\$4.00) when submitted on a standard size form approved by the Secretary of State, and for all other statements a five dollar (\$5.00) minimum

charge for up to and including three pages and one dollar (\$1.00) per page for all over three pages.”

**Sec. 5.** G.S. 25-9-405(2) of the North Carolina General Statutes is amended to read as follows:

“(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be three dollars (\$3.00) when submitted on a standard size form approved by the Secretary of State, and for all other statements a four dollar (\$4.00) minimum charge for up to and including three pages and one dollar (\$1.00) per page for all over three pages.”

**Sec. 6.** G.S. 25-9-406 of the North Carolina General Statutes is amended to read as follows:

“§ 25-9-406. *Release of collateral; duties of filing officer; fees.*—A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer, he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be three dollars (\$3.00) when submitted on a standard size form approved by the Secretary of State, and for all other statements a four dollar (\$4.00) minimum charge for up to and including three pages and one dollar (\$1.00) per page for all over three pages.”

**Sec. 7.** G.S. 25-9-407(2) of the North Carolina General Statutes is rewritten to read as follows:

“(2) Upon request of any person, the filing officer shall issue his certificate for which he shall not be liable showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be three dollars (\$3.00) plus one dollar (\$1.00) for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar (\$1.00) per page.

**Sec. 8.** All laws in conflict with this act are repealed.

**Sec. 9.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 501

CHAPTER 1317

AN ACT TO AMEND THE REGISTERS OF DEEDS UNIFORM FEE SCHEDULE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 161-10 of the North Carolina General Statutes is hereby amended to read as follows:

“§ 161-10. *Uniform fees of registers of deeds.*—(a) In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1) Instruments in general. For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be two dollars (\$2.00) for the first page, which page shall not exceed eight and one-half inches by 14 inches, plus one dollar (\$1.00) for each additional page or fraction thereof. A page exceeding eight and one-half inches by 14 inches shall be considered two pages.
- (2) Marriage licenses. For issuing a license seven dollars (\$7.00); for issuing a delayed certificate with one certified copy five dollars (\$5.00); and for a proceeding for correction of names in application, license or certificate, with one certified copy five dollars (\$5.00).
- (3) Plats. For each original or revised plat recorded seven dollars (\$7.00); for furnishing a certified copy of a plat two dollars (\$2.00).
- (4) Right-of-way plans. For each original or amended plan and profile sheet recorded five dollars (\$5.00). This fee is to be collected from the State Highway Commission.
- (5) Registration of birth certificate four years or more after birth. For preparation of necessary papers when birth to be registered in another county two dollars and fifty cents (\$2.50); for registration when necessary papers prepared in another county, with one certified copy two dollars and fifty cents (\$2.50); for preparation of necessary papers and registration in the same county, with one certified copy five dollars (\$5.00).
- (6) Amendment of birth or death record. For preparation of amendment and effecting correction one dollar (\$1.00).
- (7) Legitimations. For preparation of all documents concerned with legitimations five dollars (\$5.00).
- (8) Certified copies of birth and death certificates and marriage licenses. For furnishing a certified copy of a death or birth certificate or marriage license one dollar (\$1.00).
- (9) Certified copies. For furnishing a certified copy of any instrument for which no other provision is made by this section one dollar (\$1.00) per page or fraction thereof.
- (10) Comparing copy for certification. For comparing and certifying a copy of any instrument filed for registration, when the copy is furnished by the party filing the instrument for registration and at the time of filing thereof one dollar (\$1.00).
- (11) Uncertified copies. When, as a convenience to the public, the register of deeds supplies uncertified copies of instruments, he may charge fees that in his discretion bear a reasonable relation to the quality of copies

supplied and the cost of purchasing and maintaining copying equipment. These fees may be changed from time to time, but the amount of these fees shall at all times be prominently posted in his office.

- (12) Acknowledgment. For taking an acknowledgment, oath, or affirmation or for the performance of any notarial act one dollar (\$1.00). This fee shall not be charged if the act is performed as a part of one of the services for which a fee is provided by this subsection; except that this fee shall be charged in addition to the fees for registering, filing or recording instruments or plats as provided by subdivisions (1) and (3) of this subsection.
- (13) Uniform commercial code. Such fees as are provided for in Chapter 25, Article 9, Part 4, of the General Statutes.
- (14) Torrens registration. Such fees as are provided in G.S. 43-5.
- (15) Master forms. Such fees as are provided for instruments in general.
- (16) Probate. For certification of instruments for registration as provided in G.S. 47-14 fifty cents (\$.50).
- (17) Qualification of notary public. For administering the oaths of office to a notary public and making the appropriate record entries as provided in G.S. 10-2 three dollars (\$3.00).

(b) The uniform fees set forth in this section are complete and exclusive and no other fees shall be charged by the register of deeds.

(c) These fees shall be collected in every case prior to filing, registration, recordation, certification or other service rendered by the register of deeds unless by law it is provided that the service shall be rendered without charge.”

**Sec. 2.** All laws in conflict herewith are repealed.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**S. B. 1362                      CHAPTER 1318**

**AN ACT TO AUTHORIZE AND PROVIDE DIRECT GRANTS TO ECONOMIC OPPORTUNITY AGENCIES.**

Whereas, many citizens of North Carolina have benefited from the work of various economic opportunity (Community Action) agencies established during the 1960's under the auspices and funding of Congress; and

Whereas, many economic opportunity agencies in North Carolina have developed and now have in being experienced staffs engaged in a variety of such work, rendering immediate services to more than 200,000 needy North Carolinians, and developing new community-based programs for the benefit of the more than twenty percent (20%) of our populace who are in poverty, and seeking to foster economic self-sufficiency through self-help and voluntary self-improvement; and

Whereas, continued federal assistance from the United States Office of Economic Opportunity (OEO) for these agencies is in grave doubt beyond June 30, 1974; and

Whereas, the State should provide standby funds to assist these local agencies in the event federal OEO funds are cut off; and

Whereas, continuation of these agencies will not only enable them to carry on their work, but under other federal grant legislation may permit North Carolina to receive other federal funds which would be lost unless such local

economic opportunity agencies are in existence eligible to receive them; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1. Purpose.**—It shall be the purpose of this act to authorize and provide financial assistance to economic opportunity agencies in order to reduce levels of poverty and personal and family dependence, and to provide an opportunity and an incentive for greater cooperation among State and local agencies and institutions in attacking poverty, its causes and effects.

**Sec. 2. Definitions.**

(1) As used in this act, the term “operational costs” means costs incurred directly in the delivery of services to the recipient population of particular programs;

(2) As used in this act, the term “administrative costs” means costs incurred in the overall management of the agency, the fiscal control of the agency, and the planning, management, monitoring, coordination and evaluation of all programs and activities undertaken by the agency, including, but not limited to, the costs of salaries, travel, and general office expenses.

**Sec. 3. Designation of administering agency; powers and responsibilities.**—The Department of Human Resources (“Department”) is directed to carry out the purposes and provisions of this act. In carrying out this directive, the Department shall:

(1) Make grants to eligible economic opportunity agencies based on compliance with standards and criteria prescribed by OEO and in existence on June 30, 1973.

(2) Evaluate the use of State funds appropriated under this act to economic opportunity agencies, and submit reports based on that evaluation to the General Assembly. These reports shall also include the Department’s evaluation of conditions of economic dependence and poverty among the people of North Carolina, and among the people living in the geographical areas served by the economic opportunity agencies eligible to receive funds under this act. In the preparation of these evaluations and reports, the Department shall solicit the comments and testimony of interested citizens of North Carolina including, but not limited to, representatives of the recipient (i.e., economically disadvantaged) populations served by the economic opportunity agencies eligible to receive State funds under this act.

(3) Provide public information on the status of and the causes and effects of economic insufficiency among the people of the State; and

(4) Assist eligible economic opportunity agencies in securing federal, State, and private resources applicable to efforts aimed at promoting economic self-sufficiency and reducing individual and family economic dependence.

**Sec. 4. Eligibility for State financial assistance.**—The North Carolina Department of Human Resources is directed to allocate funds provided by this act for basic administrative costs to agencies which on June 30, 1973, were receiving funds from OEO as community action agencies under 42 U.S.C.A. 2808, or their legal successors (“eligible agencies”). Caswell Action Committee, Inc., and Rockingham County Fund, Inc., are deemed to be eligible agencies for this purpose.

**Sec. 5. Allocation of State financial assistance.**—Funds to eligible agencies shall be allocated as follows:

(1) An eligible agency wishing to receive funds under this act must apply to the Department for said funds within 60 days after notice of termination of funding provided to said eligible agency for administrative costs by OEO or its successor.

(2) As soon as possible after receiving an application for funding from an eligible agency, the Department shall make, and establish a time schedule for the disbursement of, an initial grant of twenty thousand dollars (\$20,000) per annum to that agency.

(3) Within 90 days, but after 60 days from notice of termination by OEO of funding for the administrative costs of eligible agencies, the Department shall add to the foregoing initial grant an additional grant to each applicant agency, the amount to be determined by multiplying twenty thousand dollars (\$20,000) times the number of applicant agencies, subtracting that result from eight hundred fifty thousand dollars (\$850,000), and apportioning the remainder to each applicant agency according to the ratio of the population of the county or counties served by each applicant agency to the total population of all counties served by all applicant agencies. The latest official U. S. Census figures shall be used in making this apportionment. The Department shall immediately notify each applicant agency of the amount of this additional grant, and shall incorporate this amount in the schedule of disbursements.

(4) All funds allocated under provisions of this act shall be matched at the rate of twenty percent (20%) with non-State resources either in cash or in kind, except in hardship cases previously designated by OEO as requiring less than twenty percent (20%) matching funds, in which hardship cases the matching fund percentage rate established by OEO shall apply.

(5) In no event shall any agency's funds made available under provisions of this act for basic administrative costs exceed fifty percent (50%) of that agency's operational costs.

(6) An otherwise eligible economic opportunity agency may qualify for funds under this act only after notice of termination of funding provided for administrative costs by OEO or its successor.

**Sec. 6. Authority for State departments to contract with or make grants to eligible economic opportunity agencies.**—Whenever any State department deems it advisable, it may enter into contracts with eligible economic opportunity agencies for the organization and provision of services designed to reduce levels of personal and family dependence and to promote economic self-sufficiency and may make grants to these agencies for the costs of providing such services.

**Sec. 7. Eligibility for local government assistance.**—Counties, municipalities, and regional organizations may provide assistance, in addition to that provided for in this act, to eligible economic opportunity agencies, and may enter into contracts with such agencies for the conduct of programs aimed at reducing levels of personal and family dependence and at improving the level of economic self-sufficiency of citizens including but not necessarily limited to programs involving development of community facilities and services, consumer education, manpower development, housing, early childhood development, area economic development, education, public transportation, and health and nutrition.

**Sec. 8. Local government control.**—Recognizing that programs administered by economic opportunity agencies should be controlled at the local

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government level, the boards of directors of all economic opportunity agencies receiving funds pursuant to this act shall be constituted as follows:

(1) Each community action agency eligible for funding pursuant to Section 4 of this act, shall have a governing board which shall meet the requirements of subsection (2) of this section.

(2) The board of each community action agency eligible to receive funds pursuant to Section 4 of this act shall consist of not more than 51 members and shall be so constituted that:

(a) Not less than one-half nor more than two-thirds of the members of the board shall be appointed by the board or boards of county commissioners in the county or counties served by the agency;

(b) Not less than one-third of the members of the board shall be chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served;

(c) The remaining positions on the board, if any, shall be filled by officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

**Sec. 9.** There is hereby appropriated from the General Fund of the State of North Carolina to the Department of Human Resources in addition to all other appropriations the sum of nine hundred thousand dollars (\$900,000) for the fiscal year beginning July 1, 1974, and ending June 30, 1975, for the purpose of making direct grants to economic opportunity agencies as specified in Sections 3 and 4 above and to support the Department in administering the provisions of this act as specified in Section 3 above. Such administrative costs of the Department shall not exceed fifty thousand dollars (\$50,000). If sufficient funds for the basic administrative costs of the economic opportunity agencies in North Carolina are made available to these agencies from the federal government by July 1, 1974, this appropriation shall revert to the General Fund. In any event, any part of this appropriation unexpended or unencumbered on July 1, 1975, shall revert to the General Fund.

**Sec. 10.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1250

## CHAPTER 1319

AN ACT TO PROHIBIT DEER HUNTING FROM ANY HIGHWAY RIGHT-OF-WAY MAINTAINED BY THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful to hunt deer at any time on or from any public road or highway.

**Sec. 2.** Any person violating the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00).

**Sec. 3.** The provisions of this act shall not be deemed exclusive and any person hunting, killing or taking deer or attempting to hunt, kill or take deer without a valid license, or out of season, or between sunset and sunrise, or in violation of a statute prohibiting the taking of doe deer, may also be punished for violation of any statute prohibiting such acts.

**Sec. 4.** This act shall apply only to the counties of Anson, Durham, Person, Richmond and Orange.

**Sec. 5.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1610                      CHAPTER 1320**

AN ACT TO ENTITLE INDIGENT MENTAL DEFECTIVES TO LEGAL REPRESENTATION IN STERILIZATION PROCEEDINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-451(a) as the same appears in the 1969 Replacement Volume 1B of the General Statutes is hereby amended to add the following subdivision:

“(10) A proceeding for sterilization under Chapter 35, Article 7 (Sterilization of Persons Mentally Ill and Mentally Retarded) of the General Statutes.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1685                      CHAPTER 1321**

AN ACT TO AMEND CHAPTER 89 OF THE GENERAL STATUTES TO PROVIDE FOR RENEWAL OF A LAND SURVEYOR'S LICENSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 89-8 is amended by striking out that part of the last paragraph of the section beginning in Line 13 of that paragraph with the words “Renewal may be effected at any time” and ending at the end of the section, and inserting in lieu thereof the following:

“Renewal of certificates for registration for land surveyors which have expired by failure of reason to renew on time shall be effected at any time thereafter upon payment of the annual renewal fee plus ten dollars (\$10.00). Renewal of certificates for registration for engineers may be effected at any time during the first thirty-six months immediately following its invalidation on payment of the renewal fee increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed. Failure of an engineering registrant to renew his registration for a period of thirty-six months shall require the individual, prior to resuming practice in North Carolina, to submit an application therefor on the prescribed form, and to meet all other requirements for registration as set forth in G.S. 89-7. The Board may enact rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, when the applicant for renewal demonstrates to the Board that they have maintained an active knowledge and professional status as an engineer. It shall be the responsibility of each registrant to inform the Board promptly concerning change in address.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1728

**CHAPTER 1322**

AN ACT TO AMEND G.S. 20-183.8 TO MAKE UNLAWFUL THE ATTACHING OF AN INSPECTION CERTIFICATE TO A VEHICLE THAT HAS NOT BEEN INSPECTED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-183.8 is hereby amended by adding a new subsection (f) at the end thereof to read as follows:

“(f) It shall be unlawful for any person to attach an inspection certificate to a vehicle if he knows, or has reasonable grounds to know, that the required inspection has not been performed according to law, including rules and regulations promulgated by the Commissioner.”

**Sec. 2.** This act shall become effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1798

**CHAPTER 1323**

AN ACT TO PROVIDE LIABILITY PROTECTION FOR STATE PATROL AND ALL OTHER STATE LAW ENFORCEMENT OFFICERS FOR ACTS DONE IN THE LINE OF DUTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-194 is hereby amended by designating the now existing section as subsection (a) and adding a new subsection to be designated subsection (b) and to read as follows:

“(b) In the event that a member of the Highway Patrol or any other State law enforcement officer is sued in a civil action as an individual for acts occurring while such member was alleged to be acting within the course and scope of his office, employment, service, agency or authority, which was alleged to be a proximate cause of the injury or damage complained of, the Attorney General is hereby authorized to defend such employee through the use of a member of his staff or, in his discretion, employ private counsel, subject to the provisions of Article 31A of Chapter 143 and Section 147-17 of the General Statutes of North Carolina. Any judgment rendered as a result of said civil action against such member of the Highway Patrol or other State law enforcement officer, for acts alleged to be committed within the course and scope of his office, employment, service, agency or authority shall be paid as an expense of administration up to the limit provided in the Tort Claims Act.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1854                      **CHAPTER 1324**

AN ACT TO REQUIRE CERTAIN INFORMATION BE PLACED ON SELF SERVICE GAS AND OIL EQUIPMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 3 of Chapter 119 is hereby amended by adding a new section 119-27.1 thereto to read as follows:

“§ 119-27.1. *Self service gasoline pumps.*—(a) Every owner of, or other person in control of, a self service gas pump or station whose equipment permits purchase and physical transfer of gasoline or oil products by insertion of money into some device or machine without the necessity of personal service by the owner or his agent shall clearly affix a sticker to each pump showing his name, address, and telephone number.

(b) The North Carolina Department of Agriculture shall have the responsibility for the enforcement of this section.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2083                      **CHAPTER 1325**

AN ACT TO MODIFY G.S. 159-96 RELATING TO FINANCING OF MASS TRANSIT SYSTEMS AND AERONAUTICAL AND MARINE FACILITIES NOTWITHSTANDING EXTRATERRITORIAL OPERATION THEREOF.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-96 is hereby modified by adding the following language at the end thereof:

“Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems and aeronautical facilities and marine facilities, notwithstanding that such systems or facilities may be operated for users outside the corporate limits of a municipality where the municipality finds that the system or facilities so financed would benefit the municipality.”

**Sec. 2.** This act shall take effect upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2084                      **CHAPTER 1326**

AN ACT TO AMEND G.S. 159-47 RELATING TO HOSPITALS AND OTHER HEALTH-RELATED FACILITIES OWNED OR LEASED BY A COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 159-47 is hereby amended by inserting at the end of subparagraph (3) of paragraph (a) thereof the following language:

“Notwithstanding the foregoing provisions, a county which owns or leases hospitals or other health-related facilities and has not issued any general obligation bonds during the period July 1, 1973, to July 1, 1974, for a capital project that is or was a part of such hospitals or other health-related facilities

shall have the option of applying the revenues of such hospitals or other health-related facilities in accordance with a bond order adopted under the Local Government Revenue Bond Act.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 2183                      CHAPTER 1327**

**AN ACT TO AUTHORIZE THE GASTON COUNTY BOARD OF COMMISSIONERS TO EXERCISE JURISDICTION OVER THE REGULATION OF DOMESTIC ANIMALS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Gaston County is hereby exempted from the provisions of G.S. 67-12 and the Board of Commissioners of Gaston County is hereby authorized to exercise the jurisdiction over the regulation of domestic animals set out in G.S. 160A-186.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 2185                      CHAPTER 1328**

**AN ACT TO AUTHORIZE THE YADKIN COUNTY BOARD OF EDUCATION TO TRANSFER CERTAIN PROPERTY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Yadkin County Board of Education in consideration of public service rendered, is hereby authorized to convey to the Yadkin County Rescue Squad, under such terms and conditions as the Board deems proper, a certain section of land no longer needed for public school purposes lying and being in Liberty Township, Yadkin County, North Carolina, and more particularly described as follows:

BEGINNING at an iron stake, the Northeastern corner of the Town of Yadkinville maintenance shed lot and being the Southeastern corner of the within described lot, and runs with the line of the Town of Yadkinville South 83° 30' 20" West 317.0 feet to an iron stake, Henry Chipman's Southeast corner; thence North 80° 44' 13" West 137.0 feet to a stake, a new corner for the Board of Education; thence North 83° 30' 42" East 316.71 feet to a stake in Walter Reynolds' line; thence South 9° 00' East 137.0 feet to the beginning and containing 1.00 acre, more or less, as shown on a map prepared by Jesse Lee Mackie, R. S., dated April 4, 1974, and being a part of those lands conveyed to the Board of Education by C. H. Hauser and wife, and recorded in Book 18, page 296, Yadkin County Registry.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 289 CHAPTER 1329

AN ACT TO REVISE THE GENERAL STATUTES RELATING TO THE ADMINISTRATION OF DECEDENTS' ESTATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 28 of the General Statutes and all other laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 2.** Chapter 28A, as the same appears in the 1966 Replacement Volume 2A of the General Statutes, is hereby redesignated as Chapter 28C.

**Sec. 3.** A new Chapter 28A is hereby added to the General Statutes to read as follows:

“Chapter 28A.

“Administration of Decedents’ Estates.

“Article 1.

“Definitions and Other General Provisions.

“§ 28A-1.1. *Definitions.*—As used in this Chapter, unless the context otherwise requires, the term:

(1) ‘Devisee’ means any person entitled to take real or personal property under the provisions of a valid, probated will.

(2) ‘Foreign personal representative’ means a personal representative appointed in another jurisdiction, including a personal representative appointed in another country.

(3) ‘Heir’ means any person entitled to take real or personal property upon intestacy under the provisions of Chapter 29 of the General Statutes.

(4) ‘Mortgage’ includes a deed of trust.

(5) ‘Personal representative’ includes both an executor and an administrator, but does not include a collector.

(6) ‘Service’ means delivery of the citation, summons, notice or other civil process to the person to be served by an officer authorized to serve process and, if such service cannot be obtained, then by the mailing of the citation, summons, notice or other civil process by certified mail, return receipt requested, to the last known address of the person to be served.

“§ 28A-1.2. *Doctrine of worthier title abolished.*—The common law doctrine of worthier title, both the wills branch and the deeds branch, is hereby abolished.

“Article 2.

“Jurisdiction for Probate of Wills and Administration of Estates of Decedents.

“§ 28A-2.1. *Clerk of superior court.*—The clerk of superior court of each county, ex officio judge of probate, shall have jurisdiction of the administration, settlement, and distribution of estates of decedents including, but not limited to, the following:

(1) Probate of wills;

(2) Granting of letters testamentary and of administration, or other proper letters of authority for the administration of estates.

“§ 28A-2.2. *Assistant clerk of superior court.*—An assistant clerk of superior court shall have jurisdiction as provided by G.S. 7A-102.

“§ 28A-2.3. *Jurisdiction where clerk interested.*—Whenever the clerk of superior court has an interest, direct or indirect, in an estate or trust within his

jurisdiction, jurisdiction with respect thereto shall be vested in the senior resident superior court judge of his district, and shall extend to all things which the clerk of superior court might have done in the administration of such estate.

“Article 3.

“Venue for Probate of Wills and  
Administration of Estates of Decedents.

“§ 28A-3.1. *Proper county.*—The venue for the probate of a will and for all proceedings relating to the administration of the estate of a decedent shall be:

(1) In the county in this State where the decedent had his domicile at the time of his death; or

(2) If the decedent had no domicile in this State at the time of death, then in any county wherein the decedent left any property or assets or into which any property or assets belonging to this estate may have come. If there be more than one such county, that county in which proceedings are first commenced shall have priority of venue; or

(3) If the decedent was a nonresident motorist who died in the State, then in any county in the State.

“§ 28A-3.2. *Proceedings to determine venue.*—(a) If proceedings are commenced in more than one county or if upon commencement of a proceeding a question arises as to the proper county of venue, or if for any other reason a delay arises in determining venue, then the matter shall be referred by the clerk of superior court before whom the question arises for a hearing before and determination by the senior resident superior court judge or any judge assigned to hold the superior courts of the district which includes the county where the proceedings were first commenced. The judge shall determine which is the proper county for administration of the estate and stay proceedings in all other counties. He shall make such orders as are necessary to transfer the entire proceedings to the proper county. The clerk of superior court of each county in which proceedings are stayed shall retain a true copy of the entire file and transmit the original to the clerk of superior court of such county as the judge directs.

(b) A proceeding shall be deemed commenced by the offering of a will for probate or by applying for letters of administration as provided by G.S. 28A-6.1 through G.S. 28A-6.5 or by applying for letters of collection as provided by G.S. 28A-11.1 through G.S. 28A-11.5 and the proceeding first legally commenced shall extend to all of the property or assets of the decedent in this State.

“§ 28A-3.3. *Procedure after determination of improper appointment.*—Where a person has been improperly appointed, and a different person in another county is determined under G.S. 28A-3.2(a) to be the properly appointed personal representative, such improperly appointed personal representative shall surrender to the properly appointed personal representative all assets of the estate under his control. In addition such improperly appointed personal representative shall file an accounting with the clerk of superior court in the proper county according to the form prescribed for collectors by G.S. 28A-11.4.

“§ 28A-3.4. *Liability of personal representative appointed in improper county.*—When a personal representative has been appointed in an improper county, and a different person in another county is determined under G.S. 28A-3.2(a) to be the properly appointed personal representative, such improperly appointed personal representative shall not thereby incur personal liability for

administrative acts performed prior to the transfer except as provided in G.S. 28A-13.10.

“§ 28A-3.5. *Waiver of venue.*—If questions as to priority of venue are not raised within three months after the issuance of letters testamentary or letters of administration to the personal representative, the validity of the proceeding shall not be affected by any error in venue.

“Article 4.

“Qualification and Disqualification  
for Letters Testamentary and  
Letters of Administration.

“§ 28A-4.1. *Order of persons qualified to serve.*—(a) Letters Testamentary. Letters testamentary shall be granted to the executor or executors named or designated in the will, or if no such person qualifies, to any substitute or successor executor named or designated in the will. If no person so named or designated qualifies, letters testamentary shall be granted to some other person nominated by a person upon whom the will expressly confers the authority to make such nomination. If none of the foregoing persons qualifies or if the clerk of superior court upon hearing finds that none of the foregoing persons is qualified in accordance with G.S. 28A-4.2, the clerk shall grant letters of administration in accordance with subsection (b).

(b) Letters of Administration. Letters of administration shall be granted to persons who are qualified to serve, in the following order, unless the clerk of superior court in his discretion determines that the best interests of the estate otherwise require:

- (1) The surviving spouse of the decedent;
- (2) Any devisee of the testator;
- (3) Any heir of the decedent;
- (4) Any creditor to whom the decedent became obligated prior to his death;
- (5) Any person of good character residing in the county who applies therefor; and
- (6) Any other person of good character not disqualified under G.S. 28A-4.2.

When applicants are equally entitled, letters shall be granted to the applicant who, in the judgment of the clerk of superior court, is most likely to administer the estate advantageously, or they may be granted to any two or more of such applicants.

“§ 28A-4.2. *Persons disqualified to serve as personal representative.*—No person is qualified to serve as a personal representative who:

- (1) Is under 18 years of age;
- (2) Has been adjudged incompetent in a formal proceeding and remains under such disability;
- (3) Is a convicted felon, under the laws either of the United States or of any state or territory of the United States, or of the District of Columbia and whose citizenship has not been restored;
- (4) Is a nonresident of this State who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate, and caused such appointment to be filed with the court; or who is a resident of this State who has, subsequent to appointment as a personal representative, moved from this State without appointing such process agent;

- (5) Is a corporation not authorized to act as a personal representative in this State;
- (6) Is an alien disqualified by law;
- (7) Has lost his rights as provided by Chapter 31A;
- (8) Is illiterate;
- (9) Is a person whom the clerk of superior court finds otherwise unsuitable; or
- (10) Is a person who has renounced either expressly or by implication as provided in G.S. 28A-5.1 and G.S. 28A-5.2.

“Article 5.

“Renunciation of Personal Representative.

“§ 28A-5.1. *Renunciation by executor.*—(a) Express Renunciation by Executor. Any person named or designated as executor in a duly probated will may renounce the office by filing with the clerk of superior court a writing signed by such person, and acknowledged or proved to the satisfaction of the clerk.

(b) Implied Renunciation by Executor. If any person named or designated as executor fails to qualify or to renounce within 30 days after the will had been admitted to probate, the clerk of superior court, on application of any other person named or designated as executor in the will or of any interested person, shall, or on his own motion may, issue a citation to the person who has failed to qualify or renounce to show cause why he should not be deemed to have renounced. If, upon service of the citation, he does not qualify or renounce or show cause within the time fixed in the citation, such period to be not less than 10 nor more than 30 days, an order must be entered by the clerk of superior court adjudging that he has renounced. If cause be shown, the clerk of superior court may grant to such person a reasonable extension of time within which to qualify or renounce.

(c) Procedure Upon Renunciation. Upon renunciation by a person named or designated as executor, letters shall be issued to some other person as provided in G.S. 28A-4.1.

“§ 28A-5.2. *Renunciation of right to administer.*—(a) Express Renunciation. Any person entitled to apply for letters of administration may renounce the office by filing with the clerk of superior court a writing signed by such person, and acknowledged or proved to the satisfaction of the clerk.

(b) Implied Renunciation.

(1) If any person entitled to apply for letters of administration fails to apply therefor within 30 days from the date of death of the intestate, the clerk of superior court, on application of any interested person, shall, or on his own motion may, issue a citation to the person entitled to apply for letters of administration requiring him to show cause why he should not be deemed to have renounced. If, upon service of the citation, he does not apply for letters of administration and tender the required bond or show cause within the time shown in the citation, such period to be not less than 10 nor more than 30 days, an order must be entered by the clerk of superior court adjudging that he has renounced; and the clerk of superior court shall issue letters to some other person as provided in G.S. 28A-4.1. If cause be shown the clerk of superior court may grant to such person a reasonable extension of time within which to apply and qualify, or renounce.

(2) If no person entitled to administer applies for letters of administration

within 90 days after the date of death of an intestate, then the clerk of superior court may, in his discretion, enter an order declaring all prior rights to apply for letters of administration to be renounced, and issue letters to some suitable person as provided in G.S. 28A-4.1.

(c) Nomination by Person Renouncing. Any person who expressly renounces his prior right to apply for letters of administration may at the same time nominate in writing some other person not disqualified under G.S. 28A-4.2 to be named as personal representative, and such designated person shall be entitled to the same priority of right to apply for letters of administration as the person making the nomination.

“Article 6.

“Appointment of Personal Representative.

“§ 28A-6.1. *Application for letters; grant of letters.*—(a) The application for letters of administration or letters testamentary shall be in the form of an affidavit sworn to before an officer authorized to administer oaths, signed by the applicant or his attorney, which may be supported by other proof under oath in writing, all of which shall be recorded and filed by the clerk of superior court, and shall allege the following facts:

- (1) The name, and to the extent known, the domicile and the date and place of death of the decedent;
- (2) The legal residence and mailing address of the applicant;
- (3) The names, ages and mailing addresses of the decedent’s heirs and devisees, including the names and mailing addresses of the guardians of those having court appointed guardians, so far as all of these facts are known or can with reasonable diligence be ascertained;
- (4) That the applicant is the person entitled to apply for letters, or that he applies after persons having prior right to apply are shown to have renounced under Article 5 of this Chapter, or that he applies subject to the provisions of G.S. 28A-6.2(1), and that he is not disqualified under G.S. 28A-4.2.
- (5) The nature and probable value of the decedent’s property, both real and personal, and the location of such property, so far as all of these facts are known or can with reasonable diligence be ascertained; and
- (6) If the decedent was not domiciled in this State at the time of his death, a schedule of his property located in this State, and the name and mailing address of his domiciliary personal representative, or if there is none, whether a proceeding to appoint one is pending.

(b) If it appears to the clerk of superior court that the application and supporting evidence comply with the requirements of subsection (a) and on the basis thereof he finds that the applicant is entitled to appointment, he shall issue letters of administration or letters testamentary to the applicant unless in his discretion he determines that the best interests of the estate would be served by delaying the appointment of a personal representative, in which case he may appoint a collector as provided in Article 11.

“§ 28A-6.2. *Letters issued without notice; exceptions.*—Letters of administration or letters testamentary may be issued without notice, except:

(1) When the applicant is not entitled to priority of appointment under G.S. 28A-4.1, all persons entitled to an equal or higher preference shall be given notice by citation as provided in G.S. 28A-5.2(b)(1), unless they have renounced in accordance with the provisions of Article 5 of this Chapter.

(2) The clerk of superior court may in any case require that notice be given to such interested persons as he in his discretion may designate prior to the granting of letters.

“§ 28A-6.3. *Appointment of successor to personal representative.*—When the appointment of a sole or last surviving personal representative is terminated by death, resignation pursuant to Article 10 of this Chapter, or revocation pursuant to Article 9 of this Chapter, the clerk of superior court shall appoint another personal representative as provided by G.S. 28A-4.1 to act as his successor. When two or more personal representatives have qualified, and the appointment of one or more of them is terminated by death, resignation or revocation, leaving in office one or more personal representatives, the appointment of successors shall not be required unless:

(1) The clerk of superior court determines, in his discretion, that it is in the best interest of the estate to appoint a successor or successors to such personal representative or personal representatives, or

(2) In the case of executors, the will so provides.

“§ 28A-6.4. *Right to contest appointment; procedure.*—Any interested person may, by written objection filed with the clerk of superior court, with notice to the applicant, contest the issuance of letters of administration or letters testamentary to such applicant. After an objection has been duly filed, the clerk of superior court shall conduct a hearing and determine whether letters shall issue to the applicant. Appeal may be taken from the order of the clerk as in a special proceeding.

“§ 28A-6.5. *Letters not subject to collateral attack.*—The validity of letters issued shall not be subject to collateral attack.

“Article 7.

“Oath.

“§ 28A-7.1. *Oath required before letters issue.*—Before letters testamentary, letters of administration or letters of collection are issued to any person, he shall take and subscribe an oath or affirmation before the clerk of superior court, or before any other officer of any state or country authorized by the laws of North Carolina to administer oaths, that he will faithfully and honestly discharge the duties of his office. Such oath or affirmation shall be in the form prescribed in G.S. 11-11, and shall be filed in the office of the clerk of superior court.

“Article 8.

“Bond.

“§ 28A-8.1. *Bond required before letters issue; when bond not required.*—(a) Except as otherwise provided in subsection (b), every personal representative, before letters are issued, shall give bond, conditioned as provided in G.S. 28A-8.2.

(b) No bond shall be required of:

- (1) A resident executor, unless the express terms of the will require him to give bond.
- (2) A nonresident executor, when there is a resident executor named who has qualified as coexecutor unless the express terms of the will require them to give bond, or the clerk of superior court finds that such bond is necessary for the protection of the estate; or
- (3) A personal representative appointed solely for the purpose of bringing an action for the wrongful death of the deceased until such time as the

personal representative shall receive property into the estate of the deceased; or

- (4) A personal representative which is a bank acting pursuant to G.S. 53-159.

“§ 28A-8.2. *Provisions of bond.*—A bond given pursuant to this Article shall be:

(1) Payable to the State to the use of all persons interested in the estate; and

(2) Conditioned that the personal representative giving the bond shall faithfully execute the trust reposed in him and obey all lawful orders of the clerk of superior court or other court touching the administration of the estate committed to him; and

(3) In an amount not less than:

a. One and one-fourth times the value of all personal property of the decedent when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property to be administered by the personal representative exceeds one hundred thousand dollars (\$100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof; or

b. Double the value of all personal property of the decedent when the bond is secured by one of the methods provided in subdivision (4)b., (4)c. or (4)d.; such value of said personal property to be ascertained by the clerk of superior court by examination, on oath, of the applicant or of some other person determined by the clerk to be qualified to testify as to its value; and

(4) Secured by one or more of the following:

a. Suretyship bond executed, at the expense of the estate, by a corporate surety company authorized by the Commissioner of Insurance to do business in this State;

b. Suretyship bond executed and justified upon oath before the clerk of superior court by two or more sufficient personal sureties each of whom shall reside in and own real estate in North Carolina and shall have assets with an aggregate value above encumbrances of not less than the amount of the penalty of the required bond;

c. A first mortgage or first deed of trust in form approved by the Administrative Officer of the Courts on real estate located in North Carolina:

1. Executed by the owner, and conditioned on the performance of the obligations of the bond, and

2. Containing a power of sale which, in the case of a mortgage, is exercisable by the clerk of superior court upon a breach of any condition thereof, or, in the case of a deed of trust, is exercisable by the trustee after notice by the clerk of superior court that a breach of condition has occurred.

The clerk of superior court shall not accept such mortgage or deed of trust until it shall have been properly registered in the county or counties in which the real estate is located, and the clerk of superior court is satisfied that the real estate subject to the mortgage or deed of trust is worth the amount to be secured thereby, and that the mortgage or deed of

trust is a first charge on said real estate. No such mortgage or deed of trust shall be cancelled or surrendered until the approval of the final account, unless substitution is permitted as provided in G.S. 28A-8.3(d).

d. A deposit by the owner with the clerk of superior court of negotiable securities, of a kind permitted by law to be proper investments for fiduciaries exercising due care, having a fair market value determined by the clerk to be equal to the amount of the penalty of the bond. Such securities shall be properly endorsed, delivered to the clerk of superior court, and accompanied by a security agreement containing a power of sale authorizing the clerk of superior court to sell them in the event the person to whom letters are being issued commits a breach of any duty imposed upon him by law in respect of his office. Such securities shall not be surrendered by the clerk of superior court to the owner until the approval of the final account, unless substitution is permitted as provided in G.S. 28A-8.3(d). For the purposes of determining the value of the assets of the personal sureties in subdivision (4)b., or the value of the real estate in subdivision (4)c., or the value of the negotiable securities in subdivision (4)d., the clerk of superior court may require a certificate of the value of such property by one or more persons not interested in the estate determined by the clerk to be qualified to certify such value.

“§ 28A-8.3. *Modification of bond requirements.*—(a) Increase of Bond or Security in Case of Inadequacy or Insufficiency. The clerk of superior court may, on his own motion or upon verified application of any person interested in the estate, require the personal representative to give a new bond or to furnish additional security if he finds that the bond filed pursuant to this Article, or its security, is insufficient, inadequate in amount, or that any of the individual sureties has become or is about to become a nonresident or, in the case of a corporate surety, has withdrawn or is about to withdraw from doing business in this State. Before ordering the personal representative to give a new bond or furnish additional security, the clerk of superior court shall issue a citation requiring the personal representative, within 10 days after service thereof, to show cause why such action should not be taken. If the clerk of superior court finds that the bond filed or its security is insufficient or inadequate, he shall make an order requiring the personal representative to give a new bond or to furnish additional security within a reasonable time to be fixed in the order.

(b) Increase of Bond Upon Sale of Real Estate. When a personal representative makes application for an order to sell real estate, the provisions of G.S. 1-339.10 shall govern.

(c) Reduction of Bond. On application of the personal representative the penalty of the bond may be reduced from time to time when the clerk of superior court finds that such reduction is clearly justified, but in no event shall the penalty of the bond be reduced below the amount required by G.S. 28A-8.2(3).

(d) Substitution of Security. When a bond is secured by a mortgage or deed of trust on real estate as provided in G.S. 28A-8.2(4)c. or a deposit of negotiable securities as provided in G.S. 28A-8.2(4)d., the clerk of superior court may, on application of the personal representative, order that such real estate or negotiable securities, or a part thereof, be released upon the substitution therefor of other security in compliance with G.S. 28A-8.2(4)a., (4)c., or (4)d.

Such substitution may be allowed in conjunction with any other modification of bond requirements permitted by this section.

“§ 28A-8.4. *Failure to give additional bond; letters revoked.*—If any personal representative fails to give an additional bond or new bond or to furnish additional security as ordered by the clerk of superior court pursuant to the provisions of this Article, within the time specified in any such order, the clerk of superior court shall proceed as provided in G.S. 28A-9.2.

“§ 28A-8.5. *Rights of surety in danger of loss.*—Any surety on the bond of a personal representative who is in danger of loss under his suretyship may file his petition on oath with the clerk of superior court setting forth the facts, and asking that such personal representative be removed from office, or that he be required to give security to indemnify the petitioner against apprehended loss, or that the petitioner be discharged as surety and be released from liability for any future breach of the bond. The clerk of superior court shall thereupon issue a citation to the personal representative, requiring him to answer the petition within 10 days after service thereof. If, upon the hearing, the clerk of superior court determines that the surety is entitled to relief, he may grant the same in such manner as to serve the best interest of the estate. In any event, however, the previous surety shall not be released from liability for any breach of duty by the personal representative occurring prior to the filing of bond with a new surety unless the new surety assumes liability for the earlier breaches.

“§ 28A-8.6. *Action against obligors on bond of personal representative.*—Any person injured by the breach of any bond given by a personal representative or collector may institute

a civil action against one or more of the obligors of the bond and recover such damages as he may have sustained. Any successor personal representative, or any other personal representative of the same decedent, may institute such action on behalf of the persons interested in the estate. Any such action against one or more of the obligors of the bond shall be brought in the name of the State of North Carolina and shall be instituted in the county in which letters were issued to the personal representative or collector, and the clerk of superior court shall give notice of the institution of the action in such manner as he may determine to all other persons shown by his records to be interested in the estate. The bond of the personal representative is not void after the first or any subsequent recovery thereon until the entire penalty is recovered. If the plaintiff fails to prevail, costs may be taxed against the person or persons for whose benefit the action on a personal representative's bond is prosecuted.

“Article 9.

“Revocation of Letters.

“§ 28A-9.1. *Revocation after hearing.*—(a) Grounds. Letters testamentary, letters of administration, or letters of collection may be revoked after hearing on any of the following grounds:

- (1) The person to whom they were issued was originally disqualified under the provisions of G.S. 28A-4.2 or has become disqualified since the issuance of letters.
- (2) The issuance of letters was obtained by false representation or mistake.
- (3) The person to whom they were issued has violated a fiduciary duty

through default or misconduct in the execution of his office, other than acts specified in G.S. 28A-9.2.

- (4) The person to whom they were issued has a private interest, whether direct or indirect, that might tend to hinder or be adverse to a fair and proper administration. The relationship upon which the appointment was predicated shall not, in and of itself, constitute such an interest.

(b) Procedure. When it appears to the clerk of superior court, on his own motion or upon verified complaint made to him by any person interested in the estate, that any of the grounds set forth in subsection (a) may exist with regard to any personal representative or collector within his jurisdiction, he shall issue citation requiring such personal representative or collector, within 10 days after service thereof, to show cause why his letters should not be revoked. On the return of such citation duly executed, the clerk of superior court shall set the date for a hearing. Notice of the time and date of the hearing shall be given to such persons and in such manner as the clerk of superior court shall determine. If at the hearing the clerk of superior court finds any one of the grounds set forth in subsection (a) to exist, he shall revoke the letters issued to such personal representative or collector.

“§ 28A-9.2. *Summary revocation.*—(a) Grounds. Letters testamentary, letters of administration, or letters of collection, shall be revoked by the clerk of superior court without hearing when:

- (1) After letters of administration or collection have been issued, a will is subsequently admitted to probate.
- (2) After letters testamentary have been issued:
  - a. The will is set aside, or
  - b. A subsequent testamentary paper revoking the appointment of the executor is admitted to probate.
- (3) Any personal representative or collector required to give a new bond or furnish additional security pursuant to G.S. 28A-8.3 fails to do so within the time ordered.
- (4) A nonresident personal representative refuses or fails to obey any citation, notice, or process served on him or his process agent.
- (5) A trustee in bankruptcy, liquidating agent, or receiver has been appointed for any personal representative or collector, or any personal representative or collector has executed an assignment for the benefit of creditors.
- (6) A personal representative has failed to file an inventory and appraisal report or an annual account with the clerk of superior court, as required by Article 20 and Article 21 of this Chapter, and proceedings to compel such filing pursuant to G.S. 28A-20.2 or G.S. 28A-21.4 cannot be had because service cannot be completed because the personal representative cannot be found.

(b) Procedure. Upon the occurrence of any of the acts set forth in subsection (a), the clerk of superior court shall enter an order revoking the letters issued to such personal representative or collector and shall cause a copy of the order to be served on him or his process agent.

“§ 28A-9.3. *Effect of revocation.*—Upon entry of the order revoking his letters, the authority of the personal representative or collector shall cease. He shall surrender all assets of the estate under his control to his successor, or the remaining personal representative or collector or to the clerk of superior court;

and shall file an accounting in the form prescribed by Article 21 of this Chapter. A personal representative or collector whose letters are revoked pursuant to G.S. 28A-9.2(a)(1) or G.S. 28A-9.2(a)(2) shall not thereby incur personal liability for administrative acts performed prior to revocation except as provided in G.S. 28A-13.10.

“§ 28A-9.4. *Appeal; stay effected.*—Any interested person may appeal from the order of the clerk of superior court granting or denying revocation. The procedure shall be the same as in a special proceeding. If the clerk of superior court has revoked the letters, such appeal shall stay the judgment and order of the clerk until the cause is heard and determined upon appeal.

“§ 28A-9.5. *Interlocutory orders.*—Pending any proceeding or appeal with respect to revocation of letters, the clerk of superior court may enter such interlocutory orders as are necessary to preserve the assets of the estate.

“§ 28A-9.6. *Appointment of successor to personal representative or collector whose letters have been revoked; when not required.*—Upon the revocation of letters issued to a sole or last surviving personal representative or collector, the clerk of superior court shall appoint another personal representative or collector as provided by G.S. 28A-4.1 to act as his successor. When two or more personal representatives or collectors have qualified, and the letters of one or more personal representatives or collectors are revoked, leaving in office one or more personal representatives or collectors, the appointment of successors shall not be required unless:

(1) The clerk of superior court determines, in his discretion, that it is in the best interest of the estate to appoint a successor or successors to the personal representatives or collectors whose letters have been revoked, or

(2) In the case of executors, the will so provides.

“§ 28A-9.7. *Rights and duties devolve on successor.*—After the revocation of letters pursuant to this Article and upon the qualification and appointment of a successor, the substituted personal representative or collector shall succeed to all the powers stated in G.S. 28A-13.7. He shall be subject to all the duties, responsibilities and liabilities of the original personal representative or collector, other than liabilities arising out of the grounds for revocation.

“Article 10.

“Resignation.

“§ 28A-10.1. *Clerk’s power to accept resignation.*—The clerk of superior court in the county where a person has been appointed personal representative shall have the power to accept his resignation.

“§ 28A-10.2. *Contents of petition; notice.*—(a) When a personal representative desires to resign his office, he shall file a verified petition in the office of the clerk of the superior court, setting forth:

- (1) The facts relating to his appointment and qualification;
- (2) The names and residences of all interested persons known to him;
- (3) A full statement of the reasons why the petitioner should be permitted to resign his office; and
- (4) A statement that he has filed with the clerk of superior court his accounts and a record of his conduct of the office.

(b) Notice of the petition for resignation, together with the date and time of the hearing thereon, shall be served upon all interested persons named in the petition in such manner as the clerk of superior court shall determine.

“§ 28A-10.3. *Statement of account; record of conduct.*—When the personal representative files his petition requesting permission to resign his office, he shall also file a verified statement of:

(1) His accounts since his qualification, or if he has previously filed an account, a statement of his accounts since the date thereof;

(2) The assets of the estate and their location;

(3) The debts and liabilities of the estate;

(4) All facts and circumstances known to him the disclosure of which is necessary for a full and fair assessment of his conduct of the office; and

(5) All additional facts and circumstances known to him the disclosure of which is necessary for a full and fair understanding of all matters concerning the estate.

“§ 28A-10.4. *Hearing; order.*—The clerk of superior court shall conduct a hearing on the petition not sooner than 10 days nor later than 20 days after notice to interested persons pursuant to G.S. 28A-10.2(b). If the clerk of superior court finds all the accounts proper, including accounts subsequent to the filing of the petition, and determines that the resignation of the personal representative is in the best interest of the estate and can be allowed, the resignation may be approved subject to the provisions of G.S. 28-10.5. Except in cases governed by G.S. 28A-10.8, he shall appoint a successor pursuant to G.S. 28A-4.1.

“§ 28A-10.5. *When resignation becomes effective.*—The resignation shall not become effective until:

(1) A successor has been duly qualified, unless G.S. 28A-10.8 is applicable; and

(2) The clerk of superior court is satisfied that the accounts of the personal representative are true and correct; and

(3) The personal representative has accounted to his successor in full for all assets of the estate, or if pursuant to G.S. 28A-10.8 no successor is appointed, to the remaining personal representative or representatives, and his final account has been filed with and approved by the clerk of superior court.

“§ 28A-10.6. *Appeal; stay effected.*—Any interested person who has appeared at the hearing and objected to the order of the clerk of superior court granting or denying resignation may appeal therefrom. The procedure shall be the same as in a special proceeding. If the clerk of superior court has allowed the resignation, such appeal shall stay the order of the clerk until the cause is heard and determined upon appeal.

“§ 28A-10.7. *Rights and duties devolve on successor.*—Upon the qualification and appointment of a successor to a personal representative whose resignation has been allowed as provided in G.S. 28A-10.4, the substituted personal representative shall succeed to all the powers stated in G.S. 28A-13.7 and shall also be subject to all the duties, responsibilities, and liabilities stated in Article 13.

“§ 28A-10.8. *When appointment of successor to personal representative who has resigned is not required.*—When two or more personal representatives have qualified, and one or more personal representatives resign pursuant to this Article, leaving in office one or more personal representatives, the appointment of successors shall not be required unless:

(1) The clerk of superior court determines, in his discretion, that it is in the best interest of the estate to appoint a successor or successors to the personal representative or representatives who have resigned, or

(2) In the case of executors, the will so provides.

“Article 11.

“Collectors.

“§ 28A-11.1. *Appointment and qualifications of collectors.*—When for any reason other than a situation provided for in Chapter 28B or Chapter 28C entitled ‘Estates of absentees in Military Service’ and ‘Estates of Missing Persons’ a delay is encountered in the issuance of letters to a personal representative or when, in any case, the clerk of superior court finds that the best interest of the estate would be served by the appointment of a collector, he may issue letters of collection to any person or persons not disqualified to act as a personal representative under G.S. 28A-4.2.

“§ 28A-11.2. *Oath and bond.*—Every collector shall take an oath as prescribed in G.S. 28A-7.1 and give bond as required in Article 8 of this Chapter for personal representatives.

“§ 28A-11.3. *Duties and powers of collectors.*—(a) Every collector shall:

(1) Take such possession, custody, or control of the personal property of the decedent as in the exercise of reasonable judgment he deems necessary to its preservation;

(2) Publish notices to creditors as provided by Article 14 of this Chapter;

(3) Collect claims payable to the estate;

(4) Maintain and defend actions in behalf of the estate;

(5) File inventories, accounts, and other reports in the same manner as is required of personal representatives;

(6) Renew obligations of the decedent in the same manner as the personal representative is allowed to do under the provisions of Article 13 of this Chapter; and

(7) Under the express direction and supervision of the clerk of superior court, possess, exercise and perform all other powers, duties and liabilities given to personal representatives by Article 13 of this Chapter.

“§ 28A-11.4. *When collectors’ powers cease; settlement of accounts.*—(a) When letters testamentary or letters of administration are issued, or when in any case the clerk of superior court terminates the appointment of the collector, the powers of the collector cease.

(b) Upon the termination of his appointment, the collector shall surrender to the personal representative or to the person otherwise entitled thereto or to the clerk all assets of the estate under his control and shall file with the clerk a verified statement of:

(1) His accounts since his qualification, or if he has previously filed an account, a statement of his accounts since the date thereof;

(2) The assets of the estate and their location;

(3) The debts and liabilities of the estate;

(4) All facts and circumstances known to him the disclosure of which is necessary for a full and fair assessment of his conduct of the office; and

(5) All additional facts and circumstances known to him the disclosure of which is necessary for a full and fair understanding of all matters concerning the estate.

(c) The clerk of superior court shall examine the account of the collector and if he finds all of the accounts proper, he shall by order approve the account.

“Article 12.

## “Public Administrator.

“§ 28A-12.1. *Appointment and term.*—There shall be a public administrator in every county, appointed by the clerk of superior court, with the written approval of the senior resident superior court judge of the district in which the appointment is made, for a term of four years.

“§ 28A-12.2. *Oath of office.*—The public administrator shall take and subscribe an oath or affirmation in the form provided in G.S. 11-11 for administrators and in the manner provided in G.S. 28A-7.1; and the oath or affirmation so taken and subscribed shall be filed in the office of the clerk of superior court.

“§ 28A-12.3. *Qualification and bond.*—(a) No appointment as public administrator shall become effective until the appointee has at his own expense entered into bond, secured by any of the methods provided in G.S. 28A-8.2(4), in the penal sum of not less than five thousand dollars (\$5,000) payable to the State of North Carolina, conditioned upon the faithful performance of the duties of his office and obedience to all lawful orders of the clerk of superior court or other court touching the administration of the several estates committed to him.

(b) The public administrator also shall qualify and give bond with regard to each estate administered by him as provided in Article 8 of this Chapter, at the expense of such estate.

“§ 28A-12.4. *When public administrator shall apply for letters.*—The public administrator shall apply for and may, with the approval of the clerk of superior court, obtain letters on the estates of decedents when:

(1) It is brought to his attention that a period of six months has elapsed from the death of any decedent who has died owning property, and no letters testamentary, or letters of administration or collection, have been applied for or issued to any person; or

(2) Any person without known heirs shall die intestate owning property; or

(3) Any person entitled to apply for letters of administration shall, in writing, request the clerk to issue letters to the public administrator as provided in G.S. 28A-5.2(c).

“§ 28A-12.5. *Powers and duties.*—(a) The public administrator shall have, in respect to the several estates in his hands, all the rights and powers and shall be subject to all the duties and liabilities of other personal representatives.

(b) After the expiration of the term of office of a public administrator or his resignation as public administrator, he shall continue, subject to the provisions of Articles 9 and 10 of this Chapter, to administer the several estates previously committed to him until he has fully administered the same, and his bonds shall continue in effect as to all such estates.

“§ 28A-12.6. *Removal from office.*—If letters of administration issued to the public administrator with respect to any estate are subsequently revoked on the grounds that they were obtained by false representation as provided in G.S. 28A-9.1(a)(2), or on the grounds specified in G.S. 28A-9.1(a)(1), G.S. 28A-9.1(a)(3), G.S. 28A-9.2(a)(3), G.S. 28A-9.2(a)(5), or G.S. 28A-9.2(a)(6) or if he becomes a nonresident of the State, the clerk of superior court shall order the removal of the public administrator from office.

“§ 28A-12.7. *Procedure after removal from office.*—The clerk of superior court shall require of any public administrator who is removed from office pursuant to G.S. 28A-12.6 a complete accounting of all his activities as public

administrator and for the property remaining under his control by reason of his appointment under this Article as administrator of any estate that has not been fully administered at the time of his removal. If it appears to the clerk of superior court that grounds exist for revocation of letters of administration issued with respect to any such estate, he shall proceed in accordance with the provisions of Article 9 of this Chapter. If letters of administration are revoked pursuant to such proceedings, the clerk of superior court shall issue letters of administration to the successor public administrator or to some other person not disqualified under G.S. 28A-4.2.

“Article 13.

“Representative’s Powers,  
Duties and Liabilities.

“§ 28A-13.1. *Time of accrual of duties and powers.*—The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to his body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

“§ 28A-13.2. *General duties; relation to persons interested in estate.*—A personal representative is a fiduciary who, in addition to the specific duties stated in this Chapter, is under a general duty to settle the estate of his decedent as expeditiously and with as little sacrifice of value as is reasonable under all of the circumstances. He shall use the authority and powers conferred upon him by this Chapter, by the terms of the will under which he is acting, by any order of court in proceedings to which he is party, and by the rules generally applicable to fiduciaries, for the best interests of all persons interested in the estate, and with due regard for their respective rights.

“§ 28A-13.3. *Powers of personal representative.*—(a) Except as qualified by express limitations imposed in a will of the decedent or a court order, and subject to the provisions of G.S. 28A-13.6 respecting the powers of joint personal representatives, a personal representative has the power to perform in a reasonable and prudent manner every act which a reasonable and prudent man would perform incident to the collection, preservation, liquidation or distribution of a decedent’s estate so as to accomplish the desired result of settling and distributing the decedent’s estate in a safe, orderly, accurate and expeditious manner as provided by law, including but not limited to the powers specified in the following subdivisions:

- (1) To take possession, custody or control of the personal property of the decedent. If in the opinion of the personal representative his possession, custody or control of such property is not necessary for purposes of administration, such property may be left with or surrendered to the heir or devisee presumptively entitled thereto. He has the power to take possession, custody or control of the real property of the decedent if he determines such possession, custody or control is in the best interest of the administration of the estate. Prior to exercising such power over real property the procedure as set out in subsection G.S. 28A-13.3(c) shall be followed. If the personal representative determines that such possession,

- custody or control is not in the best interest of the administration of the estate such property may be left with or surrendered to the heir or devisee presumptively entitled thereto.
- (2) To retain assets owned by the decedent pending distribution or liquidation even though such assets may include items which are otherwise improper for investment of trust funds.
  - (3) To receive assets from other fiduciaries or other sources.
  - (4) To complete performance of contracts entered into by the decedent that continue as obligations of his estate, or to refuse to complete such contracts, as the personal representative may determine to be in the best interests of the estate, but such refusal shall not limit any cause of action which might have been maintained against decedent if he had refused to complete such contract. In respect to enforceable contracts by the decedent to convey an interest in land, the provisions of G.S. 28A-17.9 are controlling.
  - (5) To deposit, as a fiduciary, funds of the estate in a bank, including a bank operated by the personal representative upon compliance with the provisions of G.S. 36-27.
  - (6) To deposit, as a fiduciary, funds of the estate, when such are not needed to meet debts and expenses immediately payable and are not immediately distributable, including moneys received from the sale of other assets, in interest-bearing accounts insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or to enter into other short-term loan arrangements that may be appropriate for use by trustees or fiduciaries generally.
  - (7) To abandon or relinquish all rights in any property when, in the opinion of the personal representative acting reasonably and in good faith, it is valueless, or is so encumbered or is otherwise in such condition that it is of no benefit to the estate.
  - (8) To vote shares of stock or other securities in person or by general or limited proxy.
  - (9) To pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.
  - (10) To hold shares of stock or other securities in the name of a nominee, without mention of the estate in the instrument representing stock or other securities or in registration records of the issuer thereof; provided, that a. the estate records and all reports or accounts rendered by the personal representative clearly show the ownership of the stock or other securities by the personal representative and the facts regarding its holdings, and b. the nominee shall not have possession of the stock or other securities or access thereto except under the immediate supervision of the personal representative or when such securities are deposited by the personal representative in a clearing corporation as defined in G.S. 25-8-102(3). Such personal representative shall be personally liable for any acts or omissions of such nominee in connection with such stock or other securities so held, as if such personal representative had done such acts or been guilty of such omissions.
  - (11) To insure, at the expense of the estate, the assets of the estate in his possession, custody or control against damage or loss.
  - (12) To borrow money for such periods of time and upon such terms and

conditions as to rates, maturities, renewals, and security as the personal representative shall deem advisable, including the power of a corporate personal representative to borrow from its own banking department, for the purpose of paying debts, taxes, and other claims against the estate, and to mortgage, pledge or otherwise encumber such portion of the estate as may be required to secure such loan or loans. In respect to the borrowing of money on the security of the real property of the decedent, G.S. 28A-17.11 is controlling.

- (13) To renew obligations of the decedent for the payment of money.
- (14) To advance his own money for the protection of the estate, and for all expenses, losses and liabilities sustained in the administration of the estate or because of the holding or ownership of any estate assets. For such advances, with any interest, the personal representative shall have a lien on the assets of the estate as against a devisee or heir.
- (15) To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the estate.
- (16) To pay taxes, assessments, his own compensation, and other expenses incident to the collection, care, administration and protection of the assets of the estate in his possession, custody or control.
- (17) To sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.
- (18) To allocate items of income or expense to either estate income or principal, as permitted or provided by law.
- (19) To employ persons, including attorneys, auditors, investment advisors, appraisers or agents to advise or assist him in the performance of his administrative duties.
- (20) To continue any business or venture in which the decedent was engaged at the date of his death, where such continuation is reasonably necessary or desirable to preserve the value, including good will, of the decedent's interest in such business. With respect to the use of the decedent's interest in a continuing partnership, the provisions of G.S. 59-71 and 59-72 qualify this power; and with respect to farming operations engaged in by the decedent at the time of his death, the provisions of G.S. 28A-13.4 qualify this power.
- (21) To incorporate or participate in the incorporation of any business or venture in which the decedent was engaged at the time of his death.
- (22) To provide for the exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate.
- (23) To maintain actions for the wrongful death of the decedent according to the provisions of Article 18 of this Chapter and to compromise or settle any such claims, whether in litigation or not, provided that any such settlement shall be subject to the approval of a judge of superior court unless all persons who would be entitled to receive any damages recovered under G.S. 28A-18.2(b)(3) are competent adults and have consented in writing. It shall be the duty of the personal representative in distributing the proceeds of such settlement in any instance to take into consideration and to make a fair allocation to those claimants for funeral, burial, hospital and medical expenses which would have been

- payable from damages which might have been recovered had a wrongful death action gone to judgment in favor of the plaintiff.
- (24) To maintain any appropriate action or proceeding to recover possession of any property of the decedent, or to determine the title thereto; to recover damages for any injury done prior to the death of the decedent to any of his property; and to recover damages for any injury done subsequent to the death of the decedent to such property.
  - (25) To purchase at any public or private sale of any real or personal property belonging to the decedent's estate or securing an obligation of the estate as a fiduciary for the benefit of the estate when, in his opinion, it is necessary to prevent a loss to the estate.
  - (26) To sell or lease personal property of the estate in the manner prescribed by the provisions of Article 16 of this Chapter.
  - (27) To sell or lease real property of the estate in the manner prescribed by the provisions of Article 17 of this Chapter.
  - (28) To enter into agreements with taxing authorities to secure the benefit of the federal marital deduction pursuant to G.S. 28A-22.6.
  - (29) To pay or satisfy the debts and claims against the decedent's estate in the order and manner prescribed by Article 19 of this Chapter.
  - (30) To distribute any sum recovered for the wrongful death of the decedent according to the provisions of G.S. 28A-18.2; and to distribute all other assets available for distribution according to the provisions of this Chapter or as otherwise lawfully authorized.
  - (31) To exercise such additional lawful powers as are conferred upon him by the will.
  - (32) To execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the personal representative.

(b) Any question arising out of the powers conferred by subsection (a) above shall be determined in accordance with the provisions of Article 18 of this Chapter.

(c) Prior to the personal representative exercising possession, custody or control over real property of the estate he shall petition the clerk of court to obtain an order authorizing such possession, custody or control. The petition shall include:

- a. A description of the real property which is the subject of the petition;
- b. The names, ages, and addresses, if known, of the devisees and heirs of the decedent;
- c. A statement by the personal representative that he has determined that such possession, custody or control is in the best interest of the administration of the estate.

The devisees and heirs will be made parties to the proceeding by service of summons in the manner prescribed by law. If the clerk of court determines that it is in the best interest of the administration of the estate to authorize the personal representative to take possession, custody or control he shall grant an order authorizing that power.

“§ 28A-13.4. *Continuance of farming operations of deceased persons.*—When any person dies while engaged in farming operations, his personal representative is authorized to continue such farming operations until the end of the current calendar year, and until all crops grown during that year are harvested. The net

income from such farming operations shall be personal assets of the estate. Any indebtedness incurred in connection with such farming operations after the date of death shall be preferred over the claims of any heir, legatee, devisee, distributee, general or unsecured creditor of said estate. Nothing herein contained shall limit the powers of a personal representative under the terms of a will.

“§ 28A-13.5. *Personal representatives hold in joint tenancy.*—Any estate or interest in property which becomes vested in two or more personal representatives shall be held by them in joint tenancy with the incident of survivorship.

“§ 28A-13.6. *Exercise of powers of joint personal representatives by one or more than one.*—(a) As used in this section, the term ‘personal representatives’ includes testamentary trustees.

(b) If a will expressly makes provision for the execution of any of the powers of personal representatives by all of them or by any one or more of them, the provisions of the will govern.

(c) If there is no governing provision in the will, personal representatives may, by written agreement signed by all of them and filed with and approved by the clerk of superior court of the county in which such personal representatives qualified, provide that any one or more of the following powers of personal representatives may be exercised by any designated one or more of them:

- (1) Open bank accounts and draw checks thereon;
- (2) Subject to the provisions of G.S. 105-24, enter any safe-deposit box of the deceased or any safe-deposit box rented by the personal representative or representatives;
- (3) Employ attorneys and accountants;
- (4) List property for taxes and prepare and file State, municipal and county tax returns;
- (5) Collect claims and debts due the estate and give receipts therefor;
- (6) Pay claims against and debts of the estate;
- (7) Compromise claims in favor of or against the estate;
- (8) Have custody of property of the estate.

(d) The voting of corporate shares of stock is governed by the provisions of G.S. 55-69(f).

(e) Subject to the provisions of subsections (b), (c) and (d) of this section, all other acts and duties must be performed by both of the personal representatives if there are two, and by a majority of them if there are more than two.

(f) No personal representative shall be relieved of liability on his bond or otherwise by entering into any agreement under this section.

“§ 28A-13.7. *Powers and duties of successor personal representative.*—A successor personal representative is one appointed to succeed a personal representative whose appointment has terminated by death, resignation or revocation. Unless a contrary intent clearly appears from the will, a successor personal representative has all the powers and duties, discretionary or otherwise, of the original personal representative.

“§ 28A-13.8. *Powers and duties of administrator with will annexed.*—When an administrator with the will annexed has been appointed, whether or not he is succeeding a previously appointed personal representative, he has the same powers and duties, discretionary or otherwise, as if he had been named executor in the will, unless a contrary intent clearly appears from the will.

“§ 28A-13.9. *Powers of surviving personal representative.*—When one or more of those nominated as co-executors in a will is not appointed, or when the appointment of one or more joint personal representatives is terminated, every power granted to such joint personal representatives may be exercised by the surviving representative or representatives; provided that nothing to the contrary appears in the will of a testate decedent.

“§ 28A-13.10. *Liability of personal representative.*—(a) Property of estate. A personal representative shall be liable for and chargeable in his accounts with all of the estate of the decedent which comes into his possession at any time, including all the income therefrom; but he shall not be liable for any debts due to the decedent or other assets of the estate which remain uncollected without his fault. He shall not be entitled to any profit by an increase in value, nor be chargeable with loss by a decrease in value or destruction without his fault, of any part of the estate.

(b) Property not a part of estate. A personal representative shall be chargeable in his accounts with property not a part of the estate which comes into his possession at any time and shall be liable to the persons entitled thereto if:

- (1) The property was received under a duty imposed on him by law in the capacity of personal representative; or
- (2) He has commingled such property with the assets of the estate.

(c) Breach of duty. A personal representative shall be liable and chargeable in his accounts for any loss to the estate arising from his embezzlement or commingling of the estate with other property; for loss to the estate through self-dealing; for any loss to the estate from wrongful acts or omissions of his joint personal representatives which he could have prevented by the exercise of ordinary care; and for any loss to the estate arising from his failure to act in good faith and with such care, foresight and diligence as an ordinarily reasonable and prudent man would act with his own property under like circumstances. If the exercise of power concerning the estate is improper, the personal representative is liable for breach of fiduciary duty to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

“Article 14.

“Notice to Creditors.

“§ 28A-14.1. *Advertisement for claims.*—Every personal representative and collector within 20 days after the granting of letters shall notify all persons, firms and corporations having claims against the decedent to present the same to such personal representative or collector, on or before a day to be named in such notice, which day must be six months from the day of the first publication or posting of such notice. The notice shall be published once a week for four consecutive weeks in a newspaper qualified to publish legal advertisements, if any such newspaper is published in the county. If there is no newspaper published in the county, but there is a newspaper having general circulation in the county, then at the option of the personal representative, or collector, the notice shall be published once a week for four consecutive weeks in the newspaper having general circulation in the county and posted at the courthouse or the notice shall be posted at the courthouse and four other public places in the county. Personal representatives are not required to publish notice to creditors if the only asset of the estate consists of a claim for damages arising from death by wrongful act.

“§ 28A-14.2. *Proof of advertisement.*—A copy of the advertisement directed by G.S. 28A-14.1 to be posted or published, together with an affidavit or affidavits by one of the persons authorized by G.S. 1-600(a) to make affidavits to the effect that such notice was posted or published in accordance with G.S. 28A-14.1, shall be filed in the office of the clerk of superior court by the personal representative or collector. The copy of the notice together with such affidavit or affidavits shall be deemed a record of the court, and a copy thereof, duly certified by the clerk of superior court, shall be received as prima facie evidence of the fact of publication in all the courts of this State.

“§ 28A-14.3. *Personal notice to creditor.*—The personal representative or collector may cause the notice to be personally served on any creditor.

“Article 15.

“Assets; Discovery of Assets.

“§ 28A-15.1. *Assets of the estate generally.*—(a) All of the real and personal property, both legal and equitable, of a decedent shall be assets available for the discharge of debts and other claims against his estate in the absence of a statute expressly excluding any such property. Provided that before real property is selected the personal representative must determine that such selection is in the best interest of the administration of the estate.

(b) In determining what property of the estate shall be sold, leased, pledged, mortgaged or exchanged for the payment of the debts of the decedent and other claims against his estate, the personal representative shall select the assets which in his judgment are calculated to promote the best interests of the estate. In the selection of assets for this purpose, there shall be no necessary distinction between real and personal property, absent any contrary provision in the will.

(c) If it shall be determined by the personal representative that it is in the best interest of the administration of the estate to sell, lease, or mortgage any real estate or interest therein to obtain money for the payment of debts and other claims against the decedent's estate, the personal representative shall institute a special proceeding before the clerk of superior court for such purpose pursuant to Article 17 of this Chapter.

(d) The crops of every deceased person, remaining ungathered at his death, shall, in all cases, belong to the personal representative or collector, as part of the personal assets of the decedent's estate; and shall not pass to the devisee by virtue of any devise of the land, unless such intent be manifest and specified in the will.

“§ 28A-15.2. *Title and possession of property.*—(a) Personal Property. Subsequent to the death of the decedent and prior to the appointment and qualification of the personal representative or collector, the title and the right of possession of personal property of the decedent is vested in his heirs; but upon the appointment and qualification of the personal representative or collector, the heirs shall be divested of such title and right of possession which shall be vested in the personal representative or collector relating back to the time of the decedent's death for purposes of administering the estate of the decedent. But, if in the opinion of the personal representative, his possession, custody and control of any item of personal property is not necessary for purposes of administration, such possession, custody and control may be left with or surrendered to the heir or devisee presumptively entitled thereto.

(b) Real Property. (1) The title to real property of a decedent is vested in his heirs as of the time of his death; but the title to real property of a decedent

devised under a valid probated will becomes vested in the devisees and shall relate back to the decedent's death, subject to the provisions of G.S. 31-39.

“§ 28A-15.3. *Non-exoneration of encumbered property.*—When real or personal property subject to any lien or security interest, except judgment liens, is specifically devised, the devisee takes the property subject to the encumbrance and without a right to have other assets of the decedent applied to discharge the secured obligation, unless an express provision of the will confers such right of exoneration. A general testamentary direction to pay the debts of the decedent is not sufficient to confer such right.

“§ 28A-15.4. *Encumbered assets.*—When any assets of the estate are encumbered by mortgage, pledge, lien or other security interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance, or convey or transfer the encumbered assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate; provided that payment of an encumbrance shall not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration by express provisions of the will.

“§ 28A-15.5. *Order in which assets appropriated; abatement.*—(a) General Rules. In the absence of testamentary indication as to the order of abatement, or some other controlling statute, shares of devisees and of heirs abate, without any preference or priority as between real and personal property, in the following order:

- (1) Property not disposed of by the will;
- (2) Residuary devisees;
- (3) General devisees;
- (4) Specific devisees.

For purposes of abatement, a demonstrative devise of money or property payable out of or charged on a particular fund or other property is treated as a specific devise; but if the particular fund or property out of which the demonstrative devise is to be paid is nonexistent or insufficient at the death of the testator, the deficiency is to be payable out of the general estate of the decedent and is to be regarded as a general devise and must abate pro rata with other general devisees. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received, had full distribution of the property been made in accordance with the terms of the will.

(b) Abatement; Sales; Contribution. When property which has been specifically devised is sold, leased, or mortgaged, or a security therein is created, by the personal representative, abatement shall be achieved by ratable adjustments in, or contributions from other interest in the remaining assets. The clerk of superior court shall, at the time of the hearing on the petition for final distribution, determine the amounts of the respective contributions and whether the same shall be made before distribution or shall constitute a lien on specific property which is distributed.

“§ 28A-15.6. *Federal income tax refunds; joint returns.*—Upon the determination by the United States Treasury Department of an overpayment of income tax by a married couple filing a joint federal income tax return, one of whom has died since the filing of such return or where a joint federal income tax return is filed on behalf of a husband and wife, one of whom has died prior to the filing of the return, any refund of the tax by reason of such overpayment, if not

in excess of five hundred dollars (\$500.00), shall be the sole and separate property of the surviving spouse. In the event that both spouses are dead at the time such overpayment is determined, such refund, if not in excess of five hundred dollars (\$500.00), shall be the sole and separate property of the estate of the spouse who died last and may be paid directly by the Treasury Department to the executor or administrator of such estate, or to the person entitled to the possession of the assets of a small estate pursuant to the provisions of Article 25 of this Chapter.

“§ 28A-15.7. *Same; separate returns.*—Upon the determination by the United States Treasury Department of an overpayment of income tax by any married person filing a separate return, any refund of the tax by reason of such overpayment, if not in excess of two hundred fifty dollars (\$250.00), exclusive of interest, shall be the sole and separate property of the surviving spouse, and the United States Treasury Department may pay said sum directly to such surviving spouse, and such payment to the extent thereof shall operate as a complete acquittal and discharge of the United States Treasury Department.

“§ 28A-15.8. *State income tax returns.*—Upon the determination by the Commissioner of Revenue of North Carolina of an overpayment of income tax by any married person, any refund of the tax by reason of such overpayment, if not in excess of two hundred dollars (\$200.00) exclusive of interest, shall be the sole and separate property of the surviving spouse, and said Commissioner of Revenue may pay said sum directly to such surviving spouse, and such payment to the extent thereof shall operate as a complete acquittal and discharge of the Commissioner of Revenue.

“§ 28A-15.9 *Excess funds.*—If the amount of any refund exceeds the sums specified in G.S. 25A-15.6, G.S. 28A-15.7 or G.S. 28A-15.8, the sums specified therein and one-half of any additional sums shall be the sole and separate property of the surviving spouse. The remaining one-half of such additional sums shall be the property of the estate of the decedent spouse.

“§ 28A-15.10. *Assets of decedent's estate for limited purposes.*—(a) When needed to satisfy claims against a decedent's estate, assets may be acquired by a personal representative or collector from the following sources:

- (1) Tentative trusts created by the decedent in savings accounts for other persons;
- (2) Gifts causa mortis made by the decedent;
- (3) Joint deposit accounts with right of survivorship created by decedent pursuant to the provisions of G.S. 41-2.1 or otherwise; and joint tenancies with right of survivorship created by decedent in corporate stocks or other investment securities.

Such assets shall be acquired solely for the purpose of satisfying such claims, however, and shall not be available for distribution to heirs or devisees.

(b) Where there are not sufficient personal and real assets of the decedent to satisfy all the debts and other claims against his estate, the personal representative shall have the right to sue for and recover any and all personal property or real property, or interest therein, which the decedent may in any manner have transferred or conveyed with intent to hinder, delay, or defraud his creditors, and any personal property or real property, or interest therein, so recovered shall constitute assets of the estate in the hands of the personal representative for the payment of debts and other claims against the estate of the decedent. But if the alienee has sold the personal property or real property,

or interest therein, so fraudulently acquired by him from the decedent to a bona fide purchaser for value without notice of the fraud, then such personal property or real property, or interest therein, may not be recovered from such bona fide purchaser but the fraudulent alienee shall be liable to the personal representative for the value of the personal property or real property, or interest therein, so acquired and disposed of to a bona fide purchaser. If the whole recovery from the fraudulent alienee shall not be necessary for the payment of the debts and other claims against the estate of the decedent, the surplus shall be returned to such fraudulent alienee or his assigns.

(c) Where there has been a recovery in an action for wrongful death, the same shall not be applied to the payment of debts and other claims against the estate of decedent or devisees, except as to the payment of reasonable burial and funeral expenses and reasonable hospital and medical expenses incident to the injury resulting in death and as limited and provided in G.S. 28-18.2.

“§ 28A-15.11. *Debt due from personal representative not discharged by appointment.*—The appointment of any person as personal representative does not discharge any debt or demand due from such person to the decedent.

“§ 28A-15.12. *Examination of persons or corporations believed to have possession of property of decedent.*—(a) Whenever a personal representative or collector makes oath or affirmation before the clerk of superior court of the county where the party to be examined resides or does business that he has reasonable ground to believe, setting forth the grounds of his belief, that any person, firm or corporation has in his or its possession any property of any kind belonging to the estate of his decedent, the clerk shall issue a notice to be served upon the person or any member of the firm or officer, agent or employee of the firm or corporation designated in the affidavit, to appear before the clerk at his office at a time fixed in the notice, not less than three days after the issuance of the notice, and be examined under oath by the personal representative or collector or his attorney concerning the possession of such property. If upon examination the clerk of superior court finds that the person examined or the firm or corporation for which he works has in his or its possession any property belonging solely to the decedent, and fails to show any satisfactory reason for retaining possession of the property, the clerk shall issue an order requiring the person, firm or corporation forthwith to deliver the property to said personal representative or collector and may enforce compliance with the order by proceedings as for contempt of court: Provided, that in the case of a firm or corporation, whenever any person other than a partner or executive officer of such firm or corporation is examined, no such order shall be made until at least three days after service of notice upon a partner or executive officer of such firm or corporation to show cause why such order should not be made.

(b) Any person aggrieved by the order of the clerk of superior court may, within five days, appeal to the judge holding the next session of superior court of the county after the order is made or to the resident judge of the district, but as a condition precedent to his appeal he shall give a justified bond in a sum at least double the value of the property in question, conditioned upon the safe delivery of the property and the payment of damages for its detention, to the personal representative or collector in the event that the order of the clerk should be finally sustained. When the bond is executed and delivered to the court, no attachment as for contempt shall be served upon the appealing party and any contempt order theretofore issued shall be stayed; but if the appellant fails to

have his appeal heard at the next session of superior court held in his county, or by the resident judge of the district within 30 days after giving notice, the appeal shall be deemed abandoned, and the stay of any contempt order theretofore issued shall terminate.

(c) The party against whom the final judgment is rendered shall be adjudged to pay the costs of the proceedings hereunder.

(d) The remedies provided in this section shall not be exclusive, but shall be in addition to any remedies which are now or may hereafter be provided.

“Article 16.

“Sales or Leases of Personal Property.

“§ 28A-16.1. *Sales or leases without court order.*—(a) A personal representative has the power to sell or lease personal property of the decedent without a court order at either a public or private sale.

(b) A personal representative who sells or leases personal property of the decedent without a court order is not required to file a special report or have the transaction confirmed by the clerk of superior court, or to follow any of the procedure set forth in Article 29A of Chapter 1 of the General Statutes, entitled ‘Judicial Sales’, but shall include in his next account, either annual or final, a record of the receipts and disbursements incident to the transaction.

“§ 28A-16.2. *Sales or leases by court order.*—(a) All sales or leases of personal property of the decedent by a collector shall be made only upon order obtained, by motion, from the clerk of superior court.

(b) A personal representative may, if he so desires, request the clerk of superior court to issue to him an order to sell or lease personal property of the decedent.

(c) Sales or leases of personal property of the decedent held pursuant to court order shall be conducted as provided in Article 29A of Chapter 1 of the General Statutes, entitled ‘Judicial Sales’.

(d) A personal representative may, for his own benefit, purchase or lease personal property belonging to the decedent at a public sale conducted under an order of the clerk of superior court, if the transaction is reported to the clerk of superior court and confirmed by him.

“§ 28A-16.3. *Sales of household furnishings.*—If the decedent is survived by a spouse, no sale or lease shall be made of the household furnishings in the usual dwelling house occupied by the surviving spouse at the time of the death of the deceased spouse, if such dwelling house was owned by the deceased spouse at the time of his or her death, until the expiration of the time limits set forth in G.S. 29-30(c) for the filing by the surviving spouse of an election in regard to the property of the decedent.

“Article 17.

“Sales, Leases or Mortgages  
of Real Property.

“§ 28A-17.1. *Sales of real property.*—Pursuant to authority contained in G.S. 28A-15.1 the personal representative may, at any time, apply to the clerk of superior court of the county where the decedent’s real property or some part thereof is situated, by petition, to sell such real property for the payment of debts and other claims against the decedent’s estate.

“§ 28A-17.2. *Contents of petition for sale.*—The petition to sell real property shall include:

- (1) A description of the real property and interest therein sought to be sold;

(2) The names, ages and addresses, if known, of the devisees and heirs of the decedent.

(3) A statement that the personal representative has determined that it is in the best interest of the administration of the estate to sell the real property sought to be sold.

“§ 28A-17.3. *Petition for partition.*—When it is alleged that the real property of the decedent sought to be sold consists in whole or in part of an undivided interest in real property, the personal representative of the decedent may include, in the petition to sell the real property for the payment of debts and other claims against the decedent’s estate, a request for partition of the lands sought to be sold.

“§ 28A-17.4. *Heirs and devisees necessary parties.*—No order to sell real property shall be granted until the heirs or devisees of the decedent have been made parties to the proceeding by service of summons in the manner required by law. Upon such service, the court shall appoint a guardian ad litem for heirs or devisees who are unknown or whose addresses are unknown, and summons shall issue to him as such. The guardian ad litem shall file answer for such heirs or devisees and defend for them, and he shall be paid such sum as the court may fix, to be paid as costs of the proceeding.

“§ 28A-17.5. *Property subject to sale; conveyance by deceased in fraud of creditors.*—The real property subject to sale under this Article shall include real property recovered from a fraudulent alienee pursuant to G.S. 28A-15.10(b).

“§ 28-17.6. *Adverse claimant to be heard; procedure.*—When the real property sought to be sold, or any interest therein, is claimed by another person, such claimant may be made a party to the proceeding, and in any event may become a party upon his own motion. When an issue of law or fact is joined between the parties, the procedure shall be as prescribed for other special proceedings.

“§ 28A-17.7. *Order granted if petition not denied; public or private sale, procedure for sale.*—If, by default or admission, the allegations in the petition are not controverted, the clerk of superior court may summarily order a sale. The procedure for the sale shall be as is provided in Article 29A of Chapter 1 of the General Statutes, entitled ‘Judicial Sales’. If it is made to appear to the clerk by petition and by satisfactory proof that it will be for the best interest of the estate to sell by private sale, the clerk may authorize a private sale in accordance with the provisions of G.S. 1-339.33 through G.S. 1-339.40.

“§ 28A-17.8. *Under power in will, sales public or private.*—Sales of real property made pursuant to authority given by will may be either public or private, unless the will otherwise directs, and may be on such terms as in the opinion of the personal representative are most advantageous to those interested in the decedent’s estate.

“§ 28A-17.9. *Death of vendor under contract; representative to convey.*—When any decedent has contracted to sell any real property and has given bond or other enforceable written contract to the purchaser to convey the same, his personal representative may execute and deliver a deed to such real property and such deed shall convey the title as fully as if it had been executed and delivered by the decedent. No deed shall be made unless the purchaser complies with the terms of the bond or other written contract. If the contract for conveyance requires the giving of a warranty deed, the deed given by the personal representative shall contain such warranties as required by the contract and the

warranties shall be binding on the estate and not on the personal representative personally.

“§ 28A-17.10. *Title in personal representative for estate; he or successor to convey.*—When real property is conveyed to a personal representative for the benefit of the estate he represents, he or any successor personal representative may sell and convey it upon such terms as he may deem just and for the advantage of the estate. The procedure shall be as is provided in Article 29A of Chapter 1 of the General Statutes, entitled ‘Judicial Sales’. If it is made to appear to the clerk of superior court by petition and by satisfactory proof that it will be for the best interest of the estate to sell by private sale, the clerk may authorize a private sale in accordance with the provisions of G.S. 1-339.33 through G.S. 1-339.40.

“§ 28A-17.11. *Personal representative may lease or mortgage.*—In lieu of asking for an order of sale of real property, the personal representative may request the clerk of superior court to issue to him an order to lease or to mortgage real property of the decedent. The clerk of superior court is authorized to issue an order to lease or mortgage on such terms as he deems to be in the best interest of the estate.

“§ 28A-17.12. *Sale, lease or mortgage of real property by heirs or devisees.*—  
 (a) If the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1 occurs within two years after the death of the decedent:

- (1) All sales, leases or mortgages of real property by heirs or devisees of any resident or nonresident decedent made after the death of the decedent and before the first publication or posting of the general notice to creditors are void as to creditors and personal representatives; and
- (2) All sales, leases or mortgages of real property by heirs or devisees of any resident or nonresident decedent made after such first publication or posting and before approval of the final account shall be void as to creditors and personal representatives unless the personal representative joins in the sale, lease or mortgage and the transaction is approved by the clerk of superior court. Approval of the clerk must appear in the deed, lease or mortgage, accompanied by a statement that he has made a finding that the transaction will not prejudice the payment of any valid claim against the estate.

(b) If the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1 does not occur within two years after the death of the decedent, all sales, leases or mortgages of real property by heirs or devisees of any resident or nonresident decedent shall be valid as to creditors and personal representatives of the decedent.

“§ 28A-17.13. *Prior validating acts.*—Chapter 70 of the Public Laws of 1923, Chapter 48 of the Public Laws of 1925, Chapter 146 of the Public Laws of 1931, and Chapters 31 and 381 of the Public Laws of 1935, all validating certain prior sales of real property by executors or administrators and heretofore codified as G.S. 28-100 through 28-104, shall remain in full force and effect, though no longer carried forward as part of the General Statutes.

“Article 18.

“Actions and Proceedings.

“§ 28A-18.1. *Survival of actions to and against personal representative.*—(a) Upon the death of any person, all demands whatsoever, and rights to prosecute

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or defend any action or special proceeding, existing in favor of or against such person, except as provided in subsection (b) hereof, shall survive to and against the personal representative or collector of his estate.

(b) The following rights of action in favor of a decedent do not survive:

- (1) Causes of action for libel and for slander, except slander of title;
- (2) Causes of action for false imprisonment;
- (3) Causes of action where the relief sought could not be enjoyed, or granting it would be nugatory after death.

“§ 28A-18.2. *Death by wrongful act of another; recovery not assets.*—(a) When the death of a person is caused by a wrongful act, neglect or default of another, such as would, if the injured person had lived, have entitled him to an action for damages therefor, the person or corporation that would have been so liable, and his or their personal representatives or collectors, shall be liable to an action for damages, to be brought by the personal representative or collector of the decedent; and this notwithstanding the death, and although the wrongful act, neglect or default, causing the death, amounts in law to a felony. The amount recovered in such action is not liable to be applied as assets, in the payment of debts or legacies, except as to burial expenses of the deceased, and reasonable hospital and medical expenses not exceeding five hundred dollars (\$500.00) incident to the injury resulting in death; provided that all claims filed for such services shall be approved by the clerk of the superior court and any party adversely affected by any decision of said clerk as to said claim may appeal to the superior court in term time, but shall be disposed of as provided in the Intestate Succession Act.

(b) Damages recoverable for death by wrongful act include:

- (1) Expenses for care, treatment and hospitalization incident to the injury resulting in death;
- (2) Compensation for pain and suffering of the decedent;
- (3) The reasonable funeral expenses of the decedent;
- (4) The present monetary value of the decedent to the persons entitled to receive the damages recovered, including but not limited to compensation for the loss of the reasonably expected:
  - a. Net income of the decedent,
  - b. Services, protection, care and assistance of the decedent, whether voluntary or obligatory, to the persons entitled to the damages recovered,
  - c. Society, companionship, comfort, guidance, kindly offices and advice of the decedent to the persons entitled to the damages recovered;
- (5) Such punitive damages as the decedent could have recovered had he survived, and punitive damages for wrongfully causing the death of the decedent through maliciousness, wilful or wanton injury, or gross negligence;
- (6) Nominal damages when the jury so finds.

(c) All evidence which reasonably tends to establish any of the elements of damages included in subsection (b), or otherwise reasonably tends to establish the present monetary value of the decedent to the persons entitled to receive the damages recovered, is admissible in an action for damages for death by wrongful act.

(d) In all actions brought under this section the dying declarations of the deceased shall be admissible as provided for in G.S. 8-51.1.

“§ 28A-18.3. *To sue or defend in representative capacity.*—All actions and proceedings brought by or against personal representatives or collectors upon any cause of action or right to which the estate of the decedent is the real party in interest, must be brought by or against them in their representative capacity.

“§ 28A-18.4. *Service on or appearance of one binds all.*—In actions against personal representatives or collectors, they are all to be considered as one person, representing the decedent; and if the summons is served on one or more, but not all, the plaintiff may proceed against those served, and if he recovers, judgment may be entered against all.

“§ 28A-18.5. *When creditors may sue on claim; execution in such action.*—An action may be brought by a creditor against the personal representative or collector on a demand at any time after it is due, but no execution shall issue against the personal representative or collector on a judgment therein against him without leave of the court, upon notice of 20 days and upon proof that the defendant has refused to pay such judgment or its ratable part, and such judgment shall be a lien on the property of the estate of the decedent only from the time of such leave granted.

“§ 28A-18.6. *Service by publication on executor without bond.*—Whenever process may issue against an executor who has not given bond, and the same cannot be served upon him by reason of his absence or concealment, service of such process may be made by publication in the manner prescribed in other civil actions.

“§ 28A-18.7. *Execution by successor in office.*—Any personal representative or collector may have execution issued on any judgment recovered by any person who preceded him in the administration of the estate, or by the decedent, in the same cases and the same manner as the original plaintiff might have done.

“§ 28A-18.8. *Action to continue, though letters revoked.*—In case the letters of a personal representative or collector are revoked, pending an action to which he is a party, the adverse party may, notwithstanding, continue the action against him in order to charge him personally. If such party does not elect so to do, within six months after notice of such revocation, the action may be continued against the successor of the personal representative or collector in the administration of the estate, in the same manner as in case of death.

#### “Article 19.

#### “Claims Against the Estate.

“§ 28A-19.1. *Manner of presentation of claims.*—Claims against a decedent’s estate may be presented as follows:

(a) The claimant may deliver or mail to the personal representative or collector a written statement of any claim indicating its basis, the name and address of the claimant, and the amount claimed. Such claim will be deemed presented upon its being received by the personal representative or collector, but if the personal representative or collector so elects, he may demand any or all of the following prior to taking action on the claim:

- (1) If the claim is not yet due, that the date when it will become due be stated;
- (2) If the claim is contingent or unliquidated, that the nature of the uncertainty be stated;
- (3) If the claim is secured, that the security be described.

(b) Any action commenced against a personal representative or collector as such after the death of the decedent is considered a claim duly presented against

the estate from the time of serving the original process on the personal representative or collector.

(c) Any action pending against any person at the time of his death, which, at law, survives against the personal representative or collector is considered a claim duly presented against the estate from the time substitution of the personal representative or collector for the deceased defendant, or motion therefor, is made.

“§ 28A-19.2. *Affidavit of claim may be required.*—Upon any claim being presented against the estate in the manner prescribed in G.S. 28A-19.1(a), the personal representative or collector may require the affidavit of the claimant or other satisfactory evidence that such claim is justly due, that no payments have been made thereon, and that there are no offsets against the same, to the knowledge of the claimant; or if any payments have been made, or any offsets exist that their nature and amount be shown by the evidence or stated in the affidavit.

“§ 28A-19.3. *Limitations on presentation of claims.*—(a) All claims, except contingent claims based on any warranty made in connection with the conveyance of real estate, against a decedent's estate which arose before the death of the decedent, including claims of the United States and the State of North Carolina and subdivisions thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, secured or unsecured, founded on contract, tort, or other legal basis, which are not presented to the personal representative or collector pursuant to G.S. 28A-19.1 within six months after the day of the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1 are forever barred against the estate, the personal representative, the collector, the heirs, and the devisees of the decedent.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the United States and the State of North Carolina and subdivisions thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, secured or unsecured, founded on contract, tort, or other legal basis are forever barred against the estate, the personal representative, the collector, the heirs, and the devisees of the decedent unless presented to the personal representative or collector as follows:

- (1) A claim based on a contract with the personal representative or collector, within six months after performance by the personal representative or collector is due;
- (2) Any claim other than a claim based on a contract with the personal representative or collector, within six months after the claim arises.

(c) No claim shall be barred by the statute of limitations which was not barred thereby at the time of the decedent's death, if the claim is presented within the period provided by subsection (a) hereof.

(d) All claims of creditors upon whom there has been personal service of notice as provided in G.S. 28A-14.3 are forever barred unless presented to the personal representative or collector within three months from the date of such service. Nothing herein contained, however, shall be construed as extending the period provided by subsections (a) and (b) hereof.

(e) Unless notice of actions or special proceedings pending against a decedent at the time of his death and surviving under G.S. 28A-18.1 is presented to the personal representative or collector within six months after the day of the first

publication or posting of the general notice to creditors as provided in G.S. 28A-14.1, no recovery may be had upon any judgment obtained in any such action or proceeding.

(f) All claims barrable under the provisions of subsections (a) and (b) hereof shall, in any event, be barred if the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1 does not occur within three years after the death of the decedent.

(g) Nothing in this section affects or prevents any action or proceeding to enforce any mortgage, deed of trust, pledge, lien (including judgment lien), or other security interest upon any property of the decedent's estate, but no deficiency judgment will be allowed if the provisions of this section are not complied with.

(h) The word 'claim' as used in this section does not apply to claims of heirs or devisees to their respective shares or interests in the decedent's estate in their capacity as such heirs or devisees.

“§ 28A-19.4. *Payment of claims and charges before expiration of six months period.*—As soon as the personal representative or collector is possessed of sufficient means over and above the other costs of administration, he shall pay the year's allowances in the amounts and in the manner prescribed in G.S. 30-15 to G.S. 30-33. Prior to the expiration of six months after the day of the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1, the personal representative or collector may pay such other claims and charges as he deems in the best interest of the estate if the total assets are sufficient to pay all claims and charges against the estate.

“§ 28A-19.5. *Contingent claims.*—If a contingent or unliquidated claim becomes absolute before the distribution of the estate of the decedent, it shall be paid in the same manner as absolute claims of the same class. In other cases the clerk of superior court may provide for the payment of contingent or unliquidated claims in any one of the following ways:

(1) The creditor and the personal representative or collector may determine, by agreement, arbitration, or compromise, the value of the contingent or unliquidated claim, according to its probable present worth, and with the approval of the clerk of superior court, it may be allowed and paid in the same manner as an absolute claim.

(2) The clerk of superior court may order the personal representative or collector to retain sufficient funds to pay the claim if and when the same becomes absolute, and order distribution of the balance of the estate.

(3) The clerk of superior court may order distribution of the estate as though the contingent or unliquidated claim did not exist, but the heirs and devisees of the estate of the decedent are liable to the creditor to the extent of the estate received by them, if the contingent or unliquidated claim thereafter becomes absolute; and the court may require such heirs and devisees to give bond for the performance of their liability to the contingent or unliquidated creditor.

(4) Such other method as the clerk of superior court may order.

“§ 28A-19.6. *Order of payment of claims.*—After payment of costs and expenses of administration, the claims against the estate of a decedent must be paid in the following order:

First class. Claims which by law have a specific lien on property to an amount not exceeding the value of such property.

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Second class. Funeral expenses to the extent of six hundred dollars(\$600.00). This limitation shall not include cemetery lot or gravestone. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of six hundred dollars (\$600.00) be diminished by any Veterans Administration, Social Security or other federal governmental benefits awarded to the estate of the decedent or to his or her beneficiaries.

Third class. All dues, taxes, and other claims with preference under the laws of the United States.

Fourth class. All dues, taxes, and other claims with preference under the laws of the State of North Carolina and its subdivisions.

Fifth class. Judgments of any court of competent jurisdiction within the State, docketed and in force, to the extent to which they are a lien on the property of the decedent at his death.

Sixth class. Wages due to any employee employed by the decedent, which claim for wages shall not extend to a period of more than 12 months next preceding the death; or if such employee was employed for the year current at the decease, then from the time of such employment; for medical services within the 12 months preceding the decease; for drugs and all other medical supplies necessary for the treatment of such decedent during the last illness of such decedent, said period of last illness not to exceed 12 months.

Seventh class. All other claims.

“§ 28A-19.7. *Satisfaction of claims other than by payment.*— Notwithstanding any provision of law to the contrary,

(1) If a decedent was liable in person at the time of his death for the payment or satisfaction of any claim or the performance, satisfaction, or discharge of any liability or obligation, whether joint or several, primary or secondary, direct or contingent, or enforceable in any other manner or form whatsoever, or

(2) If only the property of a decedent or some part thereof was liable at the time of his death for the payment or satisfaction of any claim or the performance, satisfaction, or discharge of any liability or obligation, whether joint or several, primary or secondary, direct or contingent, or enforceable in any other manner or form against the property of the decedent but not against him or his estate as a personal liability, and

(3) If any person other than the personal representative of the decedent is willing to assume the liability of the decedent and of his estate or to receive or accept property of the decedent subject to such liability in cases where the decedent was not personally liable and the creditor, obligee, or other person for whose benefit such liability exists is willing to accept an agreement with that effect and to discharge the personal representative of the decedent and the estate of the decedent from the payment, satisfaction, or discharge of such liability, and

(4) If such creditor, obligee, or other person for whose benefit such liability exists and the person assuming the liability or the person receiving or accepting property of the decedent subject to such liability shall execute, acknowledge, and deliver in the form and manner required for deeds conveying real property in North Carolina, an agreement between themselves as to such assumption of liability or the receipt or acceptance of property of the decedent subject to such

liability which shall contain a release, as hereinafter defined, discharging the personal representative of the decedent and his estate from the payment, satisfaction, or discharge of the liability, and thereafter the said creditor, obligee, or other person for whose benefit such liability exists shall have no remedy for the enforcement thereof except against the person assuming it or against the property subject to it as provided in the said agreement; then upon the filing with the clerk of superior court having jurisdiction over the estate and the personal representative of one duplicate original of the said agreement, or of a certified copy thereof if it is a duly recorded instrument, the same shall be accepted in the same manner as a voucher showing payment or discharge of the said liability in the accounts of the personal representative of the decedent.

The word 'person' as used in this section shall include one or more natural persons, corporations, partnerships, or entities having the power to own property or to make contracts in regard thereto. The word 'release' as used in this section shall include a covenant not to sue in any case in which an unqualified release or discharge of one obligee would discharge another, and if the liability involved is a negotiable instrument or other instrument transferable to a holder in due course, such release shall not be effective unless notice thereof is endorsed on the instrument involved, dated, and signed by the creditor or the holder of the indebtedness or person for whose benefit the property is encumbered.

"§ 28A-19.8. *Funeral expenses of decedent.*—Funeral expenses of a decedent shall be considered as an obligation of the estate of the decedent and the decedent's estate shall be primarily liable therefor. The provisions of this section shall not affect the application of G.S. 28A-19.6.

"§ 28A-19.9. *Gravestone authorized.*—It is lawful for personal representatives to provide suitable gravestones to mark the graves of their testators or intestates, and to pay for the cost of erecting the same and the cost thereof shall be paid as funeral expenses and credited as such in final accounts. The costs thereof shall be in the sound discretion of the personal representative, having due regard to the value of the estate and to the interests of creditors and needs of the surviving spouse and the heirs and devisees of the estate. Where the personal representative desires to spend more than four hundred dollars (\$400.00) for such purpose, and the will does not grant specific authority to the personal representative for such expenditures in excess of four hundred dollars (\$400.00), he shall file his petition before the clerk of the court, and such order as will be made by the court shall specify the amount to be expended for such purpose. Provided, however, that if the net estate is of a value in excess of twenty-five thousand dollars (\$25,000), the personal representative may, in his discretion, expend not more than eight hundred dollars (\$800.00) for this purpose without securing the order of the court required herein. If the estate is of a value in excess of twenty-five thousand dollars (\$25,000) and the personal representative desires to spend more than eight hundred dollars (\$800.00) for such purpose, and the will does not grant specific authority for such expenditure he shall file his petition and secure the order of the court herein required before expending funds for such purpose. However, in no event may more than eight hundred dollars (\$800.00) be accounted as gravestone marker cost to be credited as a funeral expense in the final accounts.

"§ 28A-19.10. *Perpetual care of cemetery lot.*—It shall be lawful for a personal representative to provide for perpetual care for the lot upon which is located the grave of his testator or intestate, and the cost thereof shall be paid

and credited as such in final accounts: Provided, that the provisions of this section shall be applicable to an interment made in a cemetery authorized by law to operate as a perpetual care cemetery or association, and the cost thereof shall be in the sound discretion of the personal representative having due regard to the value of the estate and to the interest of the surviving spouse and the heirs and devisees of the estate. Provided, where the personal representative desires to spend more than two hundred fifty dollars (\$250.00) for such purpose, and the will does not grant specific authority to the personal representative for such expenditure in excess of two hundred fifty dollars (\$250.00), he shall file his petition before the clerk of the superior court and such order as will be made by the court shall specify the amount to be expended for such purpose.

“§ 28A-19.11. *Pleading statute of limitations.*—When claims are not barred pursuant to G.S. 28A-19.3, it shall be within the discretion of the personal representative or collector acting in good faith to determine whether or not any applicable statute of limitations shall be pleaded to bar a claim which he believes to be just. His admission of such claim or his decision not to plead the statute in an action brought on the claim shall, in the absence of any showing of collusion or bad faith, be binding on all persons interested in the estate.

“§ 28A-19.12. *Claims due representative not preferred.*—No property or assets of the decedent shall be retained by the personal representative or collector in satisfaction of his own claim, in preference to others of the same class; but such claim must be established upon the same proof and paid in like manner and order as required by law in case of other debts.

“§ 28A-19.13. *No preference within class.*—No personal representative or collector shall give to any claim any preference whatever, either by paying it out of its class or by paying thereon more than a pro rata proportion in its class.

“§ 28A-19.14. *Claims not due rebated.*—Claims owed by the estate but not yet due may be paid by the personal representative on a rebate of interest thereon for the time unexpired.

“§ 28A-19.15. *Disputed claim may be referred.*—If the personal representative doubts the justness of any claim so presented, he may enter into an agreement, in writing, with the claimant, to refer the matter in controversy, whether the same be of a legal or equitable nature, to one or more disinterested persons, not exceeding three, whose proceedings shall be the same in all respects as if such reference had been ordered in an action. Such agreement to refer, and the award thereupon, shall be filed in the clerk’s office where the letters were granted, and shall be a lawful voucher for the personal representative. The same may be impeached in any proceeding against the personal representative for fraud therein: Provided, that the right to refer claims under this section shall extend to claims in favor of the estate as well as those against the estate.

“§ 28A-19.16. *Disputed claim not referred, barred in three months.*—If a claim is presented to and rejected by the personal representative or collector, and not referred as provided in G.S. 28A-19.15, the claimant must, within three months, after due notice in writing of such rejection, or after some part of the claim becomes due, commence an action for the recovery thereof, or be forever barred from maintaining an action thereon.

“§ 28A-19.17. *No lien by suit against representative.*—No lien shall be created by the commencement of a suit against a personal representative or collector.

“§ 28A-19.18. *When costs against representative allowed.*—No costs shall be recovered in any action against a personal representative or collector unless it appears that payment was unreasonably delayed or neglected, or that the defendant refused to refer the matter in controversy, in which case the court may award such costs against the defendant personally, or against the estate, as may be just.

“Article 20.

“Inventory.

“§ 28A-20.1. *Inventory within three months.*—Every personal representative and collector, within three months after his qualification, shall return to the clerk, on oath, a just, true and perfect inventory of all the real and personal property of the deceased, which have come to his hands, or to the hands of any person for him, which inventory shall be signed by him and be recorded by the clerk. He shall also return to the clerk, on oath, within three months after each sale made by him, a full and itemized account thereof, which shall be signed by him and recorded by the clerk.

“§ 28A-20.2. *Compelling the inventory.*—(a) If the inventory specified in G.S. 28A-20.1 is not filed as prescribed, the clerk of superior court must issue an order requiring the personal representative or collector to file it within the time specified in the order, not less than 20 days, or to show cause why he should not be removed from office. If, after due service of the order, the personal representative or collector does not on or before the return day of the order file such inventory or obtain further time in which to file it, the clerk may remove him from office or may issue an attachment against him for a contempt and commit him until he files said inventory report.

(b) The personal representative or collector shall be personally liable for the costs of any proceeding incident to his failure to file the inventory required by G.S. 28A-20.1. Such costs shall be taxed against him by the clerk of superior court and may be collected by deduction from any commissions which may be found due the personal representative or collector upon final settlement of the estate.

“§ 28A-20.3. *Supplemental inventory.*—(a) Whenever any property not included in the original inventory report becomes known to any personal representative or collector or whenever the personal representative or collector learns that the valuation or description of any property or interest therein indicated in the original inventory is erroneous or misleading, he shall prepare and file with the clerk of superior court a supplementary inventory in the same manner as prescribed for the original inventory. The clerk shall record the supplemental report with the original inventory.

(b) The making of the supplemental inventory shall be enforced in a manner specified in G.S. 28A-20.2.

“§ 28A-20.4. *Employment of appraisers.*—A personal representative or collector may, but shall not be required to, employ qualified and disinterested appraisers to assist in ascertaining the fair market value as of the date of the decedent’s death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets. The name and address of any appraiser shall be indicated in the inventory with the asset or assets he appraised.

“Article 21.

## “Accounting.

“§ 28A-21.1. *Annual accounts.*—If an extension of time to file the final account has been granted by the clerk of superior court pursuant to G.S. 28A-21.2, the personal representative or collector shall, within 30 days after the expiration of one year from the date of his qualification and annually, so long as any of the property of the estate remains in his control, custody or possession, file in the office of the clerk of superior court an inventory and account, under oath, of the amount of property received by him, or invested by him, and the manner and nature of such investment, and his receipts and disbursements for the past year. He must produce vouchers for all payments. The clerk of superior court may examine, under oath, such accounting party, or any other person, concerning the receipts, disbursements or any other matter relating to the estate. He must carefully review and audit such account and, if he approves the account, he must endorse his approval thereon, which shall be prima facie evidence of correctness, and cause the same to be recorded.

“§ 28A-21.2. *Final accounts.*—(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file his final account for settlement within one year of his qualification. He must produce vouchers for all payments. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited and recorded by the clerk of superior court in the manner prescribed in G.S. 28A-21.1.

(b) Except as provided in subsection (a), upon the expiration of six months after the day of the first publication or posting of the general notice to creditors as provided for in G.S. 28A-14.1, if all of the debts and other claims against the estate of the decedent duly presented and legally owing have been paid in the case of a solvent estate or satisfied pro rata according to applicable statutes in the case of an insolvent estate, the personal representative or collector may file his final account to be reviewed, audited and recorded by the clerk of superior court. Nothing in this subsection shall be construed as limiting the right of the surviving spouse or minor children to file for allowances under G.S. 30-15 through 30-18 and the right of a surviving spouse to file for property rights under G.S. 29-30.

“§ 28A-21.3. *What accounts must contain.*—Accounts filed with the clerk of superior court pursuant to G.S. 28A-21.1, signed and under oath, shall contain:

(1) The period which the account covers and whether it is an annual accounting or a final accounting;

(2) The amount and value of the property of the estate according to the inventory and appraisal or according to the next previous accounting, the amount of income and additional property received during the period being accounted for, and all gains from the sale of any property or otherwise;

(3) All payments, charges, losses, and distributions;

(4) The property on hand constituting the balance of the account, if any; and

(5) Such other facts and information determined by the clerk to be necessary to an understanding of the account.

“§ 28A-21.4. *Clerk may compel account.*—If any personal representative or collector fails to account as directed in G.S. 28A-9.3, G.S. 28A-21.1 or G.S. 28A-21.2 or renders an unsatisfactory account, the clerk of superior court shall, upon his own motion or upon the request of one or more creditors of the decedent or other interested party, promptly order such personal representative or collector

to render a full satisfactory account within 20 days after service of the order. If, after due service of the order, the personal representative or collector does not on or before the return day of the order file such account, or obtain further time in which to file it, the clerk may remove him from office or may issue an attachment against him for a contempt and commit him until he files said account.

“§ 28A-21.5. *Vouchers presumptive evidence.*—Vouchers, without other proof, are presumptive evidence of disbursement, unless impeached. If lost, the accounting party must, if required, make oath to that fact setting forth the manner of loss, and state the contents and purport of the voucher.

“Article 22.

“Distribution.

“§ 28A-22.1. *Scheme of distribution; testate and intestate estates.*—After the payment of costs of administration, taxes and other valid claims against the decedent’s estate, the personal representative shall distribute the remaining assets of the estate in accordance with the terms of decedent’s valid probated will or the provisions of Chapter 29 of the General Statutes or as otherwise lawfully authorized.

“§ 28A-22.2. *Shares of after-born and after-adopted children.*—The share of an after-born or after-adopted child, as provided by G.S. 29-9 and G.S. 31-5.5, shall be allotted to him out of any undevisee real or personal property, or out of both, if there is enough such undevisee property for that purpose. If there is no undevisee real or personal property, or if there is not enough, then the whole of the child’s share, or the deficiency, shall be made up from the devisee real or personal property, or from both. The portion contributed by a devisee shall bear the same ratio to his devise as the after-born or after-adopted child’s share bears to the net estate.

“§ 28A-22.3. *Special proceeding against unknown heirs of decedent before distribution of estate.*—If there may be heirs, born or unborn, of the decedent, other than those known to the personal representative and whose names and residences are unknown, before distributing such estate the personal representative is authorized to institute a special proceeding before the clerk of superior court for the purpose of determining who are the heirs of the decedent. All unknown heirs of the decedent shall be made parties thereto and shall be served with summons by publication as provided by G.S. 1A-1, Rule 4. Upon such service being had, the court shall appoint some discreet person to act as guardian ad litem for said unknown heirs and summons shall issue as to such guardian ad litem. Said guardian ad litem shall file answer on behalf of said unknown heirs and he may be paid for his services such sum as the court may fix, to be paid as other costs out of the estate. Upon the filing of the answer by said guardian ad litem all such unknown heirs shall be before the court for the purposes of the proceeding to the same extent as if each had been personally served with summons. Any judgment entered by the court in such proceeding shall be as binding upon said unknown heirs as if they were personally before the court and any payment or distribution made by the personal representative under orders of the court shall have the effect of fully discharging such personal representative and any sureties on his official bond to the full extent of such payment or distribution as ordered.

“§ 28A-22.4. *Distribution to nonresident trustee only upon appointment of process agent.*—(a) No assets of the estate of a decedent subject to

administration in this State shall be delivered or transferred to a trustee of a testamentary trust or an inter vivos trust who is a nonresident of this State who has not appointed a resident agent for the service of civil process for actions or proceedings arising out of the administration of the trust with regard to such property.

(b) If property is delivered or transferred to a trustee in violation of this section, process may be served outside this State or by publication, as provided by G.S. 1A-1, Rule 4, and the courts of this State shall have the same jurisdiction over the trustee as might have been obtained by service upon a properly appointed process agent. The provisions of this section with regard to jurisdiction shall be in addition to other means of obtaining jurisdiction permissible under the laws of this State.

“§ 28A-22.5. *Distribution of assets in kind in satisfaction of bequests and transfers in trust for surviving spouse.*—Whenever under any will or trust indenture the executor, trustee or other fiduciary is required to, or has an option to, satisfy a bequest or transfer in trust to or for the benefit of the surviving spouse of a decedent by a transfer of assets of the estate or trust in kind at the values as finally determined for federal estate tax purposes, the executor, trustee or other fiduciary shall, in the absence of contrary provisions in such will or trust indenture, be required to satisfy such bequest or transfer by the distribution of assets fairly representative of the appreciation or depreciation in the value of all property available for distribution in satisfaction of such bequest or transfer.

“§ 28A-22.6. *Agreements with taxing authorities to secure benefit of federal marital deduction.*—The executor, trustee, or other fiduciary having discretionary powers under a will or trust indenture with respect to the selection of assets to be distributed in satisfaction of a bequest or transfer in trust to or for the benefit of the surviving spouse of a decedent shall be authorized to enter into agreements with the Commissioner of Internal Revenue of the United States of America, and other taxing authorities, requiring the fiduciary to exercise the fiduciary's discretion so that cash and other properties distributed in satisfaction of such bequest or transfer in trust will be fairly representative of the net appreciation or depreciation in value on the date, or dates, of distribution of all property then available for distribution in satisfaction of such bequest or transfer in trust. Any such fiduciary shall be authorized to enter into any other agreement not in conflict with the express terms of the will or trust indenture that may be necessary or advisable in order to secure for federal estate tax purposes the appropriate marital deduction available under the Internal Revenue Laws of the United States of America and to do and perform all acts incident to such purpose.

“Article 23.

“Settlement.

“§ 28A-23.1. *Settlement after final account filed.*—When the personal representative or collector has paid or otherwise satisfied or provided for all claims against the estate, has distributed the remainder of the estate pursuant to G.S. 28A-22.1 and has filed his final account for settlement pursuant to G.S. 28A-22.5, if the clerk of superior court, after review of the personal representative's or collector's final account, approves the same, he shall enter an order discharging the personal representative or collector from further liability.

“§ 28A-23.2. *Payment into court of fund due minor.*—When any personal representative or collector holds property due a minor without a guardian and desires to file his petition for settlement, he may deliver the property to the clerk of superior court who shall invest upon interest or otherwise manage said property for the use of the minor or the clerk may proceed to appoint a guardian for the minor pursuant to the provisions of Chapter 33 of the General Statutes and then may deliver the property of the minor to the guardian.

“§ 28A-23.3. *Commissions allowed personal representatives; representatives guilty of misconduct or default.*—(a) Personal representatives, testamentary trustees, collectors, or other fiduciaries shall be entitled to commissions to be fixed in the discretion of the clerk of superior court not to exceed five percent (5%) upon the amounts of receipts, including the value of all personal property when received, and upon the expenditures made in accordance with law, which commissions shall be charged as a part of the costs of administration and, upon allowance, may be retained out of the assets of the estate against creditors and all other persons claiming an interest in the estate. Provided, however, when the gross value of an estate is two thousand dollars (\$2,000) or less, the clerk of superior court is authorized and empowered to fix the commission to be received by the personal representative, testamentary trustee, collector or other fiduciary in an amount as he, in his discretion, deems just and adequate.

(b) In determining the amount of such commissions, both upon personal property received and upon expenditures made, the clerk of superior court shall consider the time, responsibility, trouble and skill involved in the management of the estate. Where real property is sold to pay debts or legacies, the commission shall be computed only on the proceeds actually applied in the payment of debts or legacies.

(c) The clerk of superior court may allow commissions from time to time during the course of the administration, but the total commissions allowed shall be determined on final settlement of the estate and shall not exceed the limit fixed in this section.

(d) Nothing in this section shall be construed:

- (1) To prevent the clerk of the superior court from allowing reasonable sums for necessary charges and disbursements incurred in the management of the estate; or
- (2) To allow commissions on distribution of the shares of heirs or on distribution of shares of devisees; or
- (3) To abridge the right of any party interested in the administration of a decedent's estate to appeal an order of the clerk of superior court to a judge of superior court.

(e) No personal representative, testamentary trustee, collector or other fiduciary, who has been guilty of such default or misconduct in the due execution of his office resulting in the revocation of his appointment under the provisions of G.S. 28A-9.1, shall be entitled to any commission under the provisions of this section.

(f) For the purpose of computing commissions whenever any portion of the dividends, interest, rents or other amounts payable to a personal representative, trustee, collector or other fiduciary is required by any law of the United States or other governmental unit to be withheld for income tax purposes by the person, corporation, organization or governmental unit paying the same, the amount so withheld shall be deemed to have been received and expended.

“§ 28A-23.4. *Counsel fees allowable to attorneys serving as representatives.*—The clerk of superior court, in his discretion, is authorized and empowered to allow counsel fees to an attorney serving as a personal representative, testamentary trustee, collector, or other fiduciary (in addition to the commissions allowed him as such representative or fiduciary) where such attorney in behalf of the estate or trust he represents renders professional services, as an attorney, which are beyond the ordinary routine of administration and of a type which would reasonably justify the retention of legal counsel by any such representative or fiduciary not himself licensed to practice law.

“§ 28A-23.5. *Reopening administration.*—If, after an estate has been settled and the personal representative discharged, other property of the estate shall be discovered, or if it shall appear that any necessary act remains unperformed on the part of the personal representative, or for any other proper cause, the clerk of superior court, upon the petition of any person interested in the estate and without notice or upon such notice as he may direct, may order that said estate be reopened. He may reappoint the personal representative or appoint another personal representative to administer such property or perform such acts as may be deemed necessary. Unless the clerk of superior court shall otherwise order, the provisions of this Chapter as to an original administration shall apply to the proceedings had in the reopened administration; but no claim which is already barred can be asserted in the reopened administration.

“Article 24.

“Uniform Simultaneous Death Act.

“§ 28A-24.1. *Disposition of property where no sufficient evidence of survivorship.*—Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this Article.

“§ 28A-24.2. *Beneficiaries of another person's disposition of property.*—(a) Other than as provided in subsection (b) below, if property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his surviving another person and both persons die, and there is no sufficient evidence that the two have died other than simultaneously, the beneficiary shall be deemed not to have survived.

(b) If property is so disposed of that it is to be distributed among such members of a class as survive another person and there is no sufficient evidence that one or more members of the class and such other person died other than simultaneously, each member of the class so dying will be deemed to have survived such other person.

(c) If property is so disposed of that its disposition depends upon the time of death of two or more beneficiaries designated to take alternatively by reason of survivorship and there is no sufficient evidence that such beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are alternative beneficiaries who would have taken the whole property if they had survived and such portions shall be distributed respectively to each such beneficiary.

“§ 28A-24.3. *Joint tenants or tenants by the entirety.*—(a) Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property shall be distributed one-half as if

one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

(b) For the purpose of this section, the term 'joint tenants' includes owners of property held under circumstances which entitled one or more to the whole of the property on the death of the other or others.

“§ 28A-24.4. *Insurance policies.*—Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

“§ 28A-24.5. *Article does not apply if decedent provides otherwise.*—This Article shall not apply in the case of wills, living trusts, deeds, contracts of insurance, or any other situation wherein provision has been made for distribution of property different from the provisions of this Article, or wherein provision has been made for a presumption as to survivorship which results in a distribution of property different from that herein provided.

“§ 28A-24.6. *Uniformity of interpretation.*—This Article shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.

“§ 28A-24.7. *Short title.*—This Article may be cited as the Uniform Simultaneous Death Act.

“Article 25.

“Small Estates.

“§ 28A-25.1. *Property collectible by affidavit; contents of affidavit.*—(a) When a decedent dies intestate leaving personal property, less liens and encumbrances thereon, not exceeding five thousand dollars (\$5,000) in value, at any time after 30 days from the date of death, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be an heir of the decedent, not disqualified under G.S. 28A-4.2, upon being presented a certified copy of an affidavit filed in accordance with subsection (b) and made by or on behalf of the heir stating:

- (1) The name and address of the affiant and the fact that he or she is an heir of the decedent;
- (2) The name of the decedent and his residence at time of death;
- (3) The date and place of death of the decedent;
- (4) That 30 days have elapsed since the death of the decedent;
- (5) That the value of all the personal property owned by the estate of the decedent, less liens and encumbrances thereon, does not exceed five thousand dollars (\$5,000);
- (6) That no application or petition for appointment of a personal representative is pending or has been granted in any jurisdiction;
- (7) The names and addresses of those persons who are entitled, under the provisions of the Intestate Succession Act, to the personal property of the decedent and their relationship, if any, to the decedent; and
- (8) A description sufficient to identify each tract of real property owned by the decedent at the time of his death.

(b) Prior to the recovery of any assets of the decedent, a copy of the affidavit described in subsection (a) shall be filed in the office of the clerk of superior court of the county where the decedent had his domicile at the time of his death. The affidavit shall be filed by the clerk upon payment of the fee provided in G.S. 7A-308(a)(11), shall be indexed in the index to estates, and a copy thereof shall be mailed to the persons shown in the affidavit as entitled to the personal property.

(c) The presentation of an affidavit as provided in subsection (a) shall be sufficient to require the transfer to the affiant or his designee of the title and license to a motor vehicle registered in the name of the decedent owner; the ownership rights of a savings account or checking account in a bank in the name of the decedent owner; the ownership rights of a savings account or share certificate in a credit union, building and loan association, or savings and loan association in the name of the decedent owner; the ownership rights in any stock or security registered on the books of a corporation in the name of a decedent owner; or any other property or contract right owned by decedent at the time of his death.

“§ 28A-25.2. *Effect of affidavit.*—The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to an affidavit meeting the requirements of G.S. 28A-25.1(a) is discharged and released to the same extent as if he dealt with a duly qualified personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in an action brought for that purpose by or on behalf of the persons entitled thereto. The court costs and attorney’s fee incident to the action shall be taxed against the person whose refusal to comply with the provisions of G.S. 28A-25.1(a) made the action necessary. The heir or creditor to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any duly qualified personal representative or collector of the decedent’s estate or to any other person having an interest in the estate.

“§ 28A-25.3. *Disbursement and distribution of personal property collected by affidavit.*—(a) If there has been no personal representative or collector appointed by the clerk of superior court, the heir or creditor who has collected personal property of the decedent by affidavit pursuant to G.S. 28A-25.1 shall:

- (1) Disburse and distribute the same in the following order:
  - a. To the payment of the surviving spouse’s year’s allowance and the children’s year’s allowance assigned in accordance with G.S. 30-15 through G.S. 30-33;
  - b. To the payment of the debts and claims against the estate of the decedent in the order of priority set forth in G.S. 28A-19.6, or to the reimbursement of any person who has already made payment thereof;
  - c. To the distribution of the remainder of the personal property to the persons entitled thereto under the provisions of the Intestate Succession Act; and
- (2) File an affidavit with the clerk of superior court that he has collected the personal property of the decedent and the manner in which he has disbursed and distributed the same.

(b) Nothing in this section shall be construed as changing the rule of G.S. 28A-15.1 and 28A-15.5 rendering both real and personal property, without preference or priority, available for the discharge of debts and other claims against the estate of the decedent.

“§ 28A-25.4. *Clerk may compel compliance.*—If any heir who has collected personal property of the decedent by affidavit pursuant to G.S. 28A-25.1 shall fail to make distribution or file affidavit as required by G.S. 28A-25.3, the clerk of superior court may, upon his own motion or at the request of any interested person, issue an attachment against him for a contempt and commit him until he makes proper distribution and files the affidavit.

“§ 28A-25.5. *Subsequently appointed personal representative or collector.*—Nothing in this Article shall preclude any interested person, including the affiant, from petitioning the clerk of superior court for the appointment of a personal representative or collector to conclude the administration of the decedent's estate. If such is done, the affiant who has been collecting personal property by affidavit shall cease to do so, shall deliver all assets in his possession to the personal representative, and shall render a proper accounting to the personal representative or collector.

“Article 26.

“Foreign Personal Representatives  
and Ancillary Administration.

“§ 28A-26.1. *Domiciliary and ancillary probate and administration.*—The domiciliary, or original, administration of the estates of all decedents domiciled in North Carolina at the time of death shall be under the jurisdiction of this State and of a proper clerk of superior court in this State, and the original probate of all wills of such persons shall be in this State. Any administration of the estate and any probate of a will of such decedents outside North Carolina shall be ancillary only. All assets, except real estate (but including proceeds from the sale of real estate), subject to ancillary administration in a jurisdiction outside North Carolina shall, to the extent such assets are not necessary for the requirements of such ancillary administration, be transferred and delivered by the ancillary personal representative to the duly qualified personal representative in this State for administration and distribution by the domiciliary personal representative, and the domiciliary personal representative in this State shall have the duty of collecting all such assets from the ancillary personal representative. The receipt of the domiciliary personal representative shall fully acquit the ancillary personal representative with respect to the assets covered thereby. The domiciliary personal representative in North Carolina shall have the exclusive right and duty to pay all federal and North Carolina taxes owed by the estate of such decedent and to make proper distribution of all assets including those collected from the ancillary personal representative.

“§ 28A-26.2. *Payment of debt and delivery of property to domiciliary personal representative of a nonresident decedent without ancillary administration in this State.*—(a) At any time after the expiration of 60 days from the death of a nonresident decedent, any resident of this State indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent may pay the debt or deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary personal representative of the

nonresident decedent upon being presented with a certified or exemplified copy of his letters of appointment and an affidavit made by or on behalf of the domiciliary personal representative stating:

- (1) The date of the death of the nonresident decedent;
- (2) That to the best of his knowledge no administration, or application or petition therefor, is pending in this State;
- (3) That the domiciliary personal representative is entitled to payment or delivery.

(b) Payment or delivery made in good faith on the basis of the proof of appointment as domiciliary personal representative of a nonresident decedent and an affidavit meeting the requirements of subsection (a) constitutes a release to the same extent as if payment or delivery had been made to an ancillary personal representative.

(c) Payment or delivery under this section shall not be made if a resident creditor of the nonresident decedent has notified the resident debtor of the nonresident decedent or the resident having possession of the personal property belonging to the nonresident decedent that the debt should not be paid nor the property delivered to the domiciliary personal representative of the nonresident decedent.

“§ 28A-26.3. *Ancillary administration.*—(a) Any domiciliary personal representative of a nonresident decedent upon the filing of a certified or exemplified copy of letters of appointment with the clerk of superior court who has venue under G.S. 28A-3.1 may be granted ancillary letters in this State notwithstanding that the domiciliary personal representative is a nonresident of this State or is a foreign corporation. If the domiciliary personal representative is a foreign corporation, it need not qualify under any other law of this State to authorize it to act as ancillary personal representative in the particular estate. If application is made for the issuance of ancillary letters to the domiciliary personal representative, the clerk of superior court shall give preference in appointment to the domiciliary personal representative unless the decedent shall have otherwise directed in a will.

(b) If, within 90 days after the death of the nonresident, or within 60 days after issue of domiciliary letters, should that be a shorter period, no application for ancillary letters has been made by a domiciliary personal representative, any person who could apply for issue of letters had the decedent been a resident may apply for issue of ancillary letters.

If it is known that there is a duly qualified domiciliary personal representative, the clerk of superior court shall send notice of such application, by registered mail, to that personal representative and to the appointing court. Such notice shall include a statement that, within 14 days after its mailing, the domiciliary personal representative may apply for the issue of ancillary letters with the preference specified in subsection (a) of this section; and that his failure to do so will be deemed a waiver, with the result that letters will be issued to another. Upon such failure, the clerk of superior court may issue ancillary letters in accordance with the provisions of Article 4 of this Chapter.

If the applicant and the clerk of superior court have no knowledge of the existence of a domiciliary personal representative, the clerk of superior court may proceed to issue ancillary letters. Subsequently, upon it becoming known that a domiciliary personal representative has been appointed, whether such appointment occurred before or after the issue of ancillary letters, the clerk of

superior court shall notify the domiciliary personal representative, by registered mail, of the action taken by the clerk of superior court and the state of the ancillary administration. Such notice shall include a statement that at any time prior to approval of the ancillary personal representative's final account the domiciliary personal representative may appear in the proceedings for any purpose he may deem advisable; and that he may apply to be substituted as ancillary personal representative, but that such request will not be granted unless the clerk of superior court finds that such action will be for the best interests of North Carolina administration of the estate.

“§ 28A-26.4. *Bonds.*—(a) Subject to the exception in subsection (b), any personal representative, including a domiciliary personal representative, who is granted ancillary letters of administration in this State must satisfy the bond requirements prescribed in Article 8 of this Chapter.

(b) Where a citizen or subject of a foreign country, or of any other state or territory of the United States, by will sufficient according to the laws of this State, and duly probated and recorded in the proper county, devises to his executor, with power to sell and convey, real property situated in this State in trust for a person named in the will, the power being vested in the executor as such trustee, the executor may execute the power without giving bond in this State.

“§ 28A-26.5. *Authority of domiciliary personal representative of a nonresident decedent.*—The domiciliary personal representative of the nonresident decedent after qualifying as ancillary personal representative in this State is authorized to administer the North Carolina estate of the nonresident decedent in accordance with the provisions of this Chapter.

“§ 28A-26.6. *Jurisdiction.*—(a) A domiciliary personal representative of a nonresident decedent may invoke the jurisdiction of the courts of this State after qualifying as ancillary personal representative in this State except that he may invoke such jurisdiction prior to qualification for the purpose of appealing from a decision of the clerk of superior court regarding a question of qualification.

(b) A domiciliary personal representative of a nonresident decedent submits to the jurisdiction of the courts of this State:

- (1) As provided in G.S. 1-75.4; or
- (2) By receiving payment of money or taking delivery of personal property under G.S. 28A-26.2; or
- (3) By acceptance of ancillary letters of administration in this State under G.S. 28A-26.3; or
- (4) By doing any act as personal representative in this State which if done as an individual would have given the State jurisdiction over him as an individual.

“§ 28A-26.7. *Service on personal representative of a nonresident decedent.*—A court of this State having jurisdiction of the subject matter and grounds for personal jurisdiction as provided in G.S. 28A-26.6 may exercise personal jurisdiction over a defendant by service of process in accordance with the provisions of G.S. 1A-1, Rule 4(j).

“§ 28A-26.8. *Duties of personal representative in an ancillary administration.*—(a) All assets of estates of nonresident decedents being administered in this State are subject to all claims, allowances and charges

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existing or established against the estate of the decedent wherever existing or established.

(b) An adjudication of a claim rendered in any jurisdiction in favor of or against any personal representative of the estate of a nonresident decedent is binding on the ancillary personal representative in this State and on all parties to the litigation.

(c) Limitations on presentation of claims shall be governed by the provisions of this Chapter except that creditors residing in the domiciliary state barred by the statutes of that state may not file claims in an ancillary administration in this State.

(d) In the payment of claims by the ancillary administrator, the following rules shall apply:

- (1) If the value of the entire estate, wherever administered, equals or exceeds family exemptions and allowances, prior charges and claims against the entire estate, the claims allowed in this State shall be paid in full from assets in this State, if such assets are sufficient for the purpose.
- (2) If such total exemptions, allowances, charges and claims exceed the value of the entire estate, the claims allowed in this State shall be paid their proper percentage pro rata by class as provided by G.S. 28A-19.6, if assets in this State are sufficient for the purpose.
- (3) If assets in this State are inadequate for either of the purposes stated in subdivisions (1) or (2) above, the claims allowed in this State shall be paid, pro rata by class as provided by G.S. 28A-19.6, to the extent the local assets will permit.
- (4) If the value of the entire estate, wherever administered, is insufficient to pay all exemptions and allowances, prior charges and claims against the entire estate, the priority for order of payment established by the law of the domicile will prevail.

“§ 28A-26.9. *Remission of surplus assets by ancillary personal representative to domiciliary personal representative.*—Unless a testator in a will otherwise directs, any assets (including proceeds from the sale of real estate) remaining after payment of claims against the estate of a nonresident decedent being administered by an ancillary personal representative other than the domiciliary personal representative shall be transferred and delivered to the domiciliary personal representative or, if none, to the court in the domicile of the decedent which has jurisdiction to administer the estate.”

**Sec. 4.** G.S. 28-53 is hereby transferred to Chapter 36 of the General Statutes entitled Trust and Trustees and redesignated as Article IX - Testamentary Trustees - and codified as 36-62.

**Sec. 5.** This act shall be effective on and after July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 328

**CHAPTER 1330**

AN ACT TO MAKE CERTAIN CHANGES IN THE RULES OF THE ROAD PORTION OF CHAPTER 20 OF THE GENERAL STATUTES AND TO MAKE RELATED CHANGES IN CHAPTERS 14 AND 136 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-1 is hereby renumbered as G.S. 20-1.1 and a new G.S. 20-1 is hereby inserted at the beginning of Chapter 20 of the General Statutes to read as follows:

“§ 20-1. *Definitions.*—Unless the context otherwise requires, the following words and phrases, for the purpose of this Chapter, shall have the following meanings:

(1) **Business District.** The territory prescribed as such by ordinance of the Board of Transportation.

(2) **Cancelled.** As applied to operators' and chauffeurs' licenses and permits, a declaration that a license or permit which was issued through error or fraud is void and terminated.

(3) **Chauffeur.** Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives any motor vehicle when in use for the transportation of persons or property for compensation and the driver, other than the owner of a private hauler, of any property hauling vehicle or combination of vehicles licensed for more than 26,000 pounds gross weight and the driver of any passenger-carrying vehicle of over nine passenger capacity except the driver of a church bus, farm bus, school bus, or an activity bus for a nonprofit organization when such bus is being operated for a nonprofit purpose, who holds a valid operator's license. Those under 20 years of age must be certified and licensed to operate a North Carolina school bus.

(4) **Commissioner.** The Commissioner of Motor Vehicles.

(5) **Dealer.** Every person engaged in the business of buying, selling, distributing, or exchanging motor vehicles, trailers or semitrailers in this State, having an established place of business in this State and being subject to the tax levied by G.S. 105-89.

The terms 'motor vehicle dealer', 'new motor vehicle dealer', and 'used motor vehicle dealer' shall have the meaning set forth in G.S. 20-286.

(6) **Department.** The Department of Motor Vehicles acting directly or through its duly authorized officers and agents.

(7) **Driver.** The operator of a vehicle.

(8) **Essential Parts.** All integral and body parts of a vehicle of any type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(9) **Established Place of Business.** Except as provided in G.S. 20-286, the place actually occupied by a dealer or manufacturer at which a permanent business of bargaining, trading, and selling motor vehicles is or will be carried on and at which the books, records, and files necessary and incident to the conduct of the business of automobile dealers or manufacturers shall be kept and maintained.

(10) Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combusive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous presses are capable of producing destructible effects on contiguous objects or of destroying life or limb.

(11) Farm Tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(12) Foreign Vehicle. Every vehicle of a type required to be registered hereunder brought into this State from another state, territory, or country, other than in the ordinary course of business, by or through a manufacturer or dealer and not registered in this State.

(13) Highway or Street. The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms 'Highway' or 'Street' or a combination of the two terms shall be used synonymously.

(14) House Trailer. Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle.

(15) Implement of Husbandry. Every vehicle which is designed for agricultural purposes and used exclusively in the conduct of agricultural operations.

(16) Intersection. The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(17) License. Any driver's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this State including:

- a. Any temporary license or learner's permit.
- b. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
- c. Any nonresidents' operating privilege.

(18) Local Authorities. Every county, municipality, or other territorial district with a local board or body having authority to adopt local police regulations under the Constitution and laws of this State.

(19) Manufacturer. Every person, resident, or nonresident of this State, who manufactures or assembles motor vehicles.

(20) Manufacturer's Certificate. A certification on a form approved by the Department, signed by the manufacturer, indicating the name of the person or dealer to whom the therein described vehicle is transferred, the date of transfer and that such vehicle is the first transfer of such vehicle in ordinary trade and commerce. The description of the vehicle shall include the make, model, year,

type of body, identification number or numbers, and such other information as the Department may require.

(21) Metal Tire. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(22) Motorcycle. A type of passenger vehicle as defined in G.S. 20-1(27).

(23) Motor Vehicle. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle.

(24) Nonresident. Any person whose legal residence is in some state, territory, or jurisdiction other than North Carolina or in a foreign country.

(25) Operator. A person in actual physical control of a vehicle which is in motion or which has the engine running.

(26) Owner. A person holding the legal title to a vehicle, or in the event a vehicle is the subject of a chattel mortgage or an agreement for the conditional sale or lease thereof or other like agreement, with the right of purchase upon performance of the conditions stated in the agreement, and with the immediate right of possession vested in the mortgagor, conditional vendee or lessee, said mortgagor, conditional vendee or lessee shall be deemed the owner for the purpose of this Chapter. For the purposes of this Chapter, the lessee of a vehicle owned by the government of the United States shall be considered the owner of said vehicle.

(27) Passenger Vehicles.

- a. Excursion passenger vehicles. Vehicles transporting persons on sight-seeing or travel tours.
- b. For-hire passenger vehicles. Vehicles transporting persons for compensation. This classification shall not include vehicles of nine-passenger capacity or less operated as ambulances or operated by the owner where the cost of operation is shared by the passengers; vehicles transporting students for the public school system under contract with the State Board of Education; or vehicles leased to the United States of America or any of its agencies on a nonprofit basis.
- c. Common carriers of passengers. Vehicles operated under a franchise certificate issued by the Utilities Commission for operation on the highways of this State between fixed termini or over a regular route for the transportation of persons or property for compensation.
- d. Motorcycles. Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, and three-wheeled vehicles while being used by law enforcement agencies.
- e. U-drive-it passenger vehicles. Vehicles rented or leased to be operated by the lessee. This shall not include vehicles of nine-passenger capacity or less which are leased for a term of one year or more to the same person or vehicles leased or rented to public school authorities for driver-training instruction.
- f. Ambulances. Vehicles equipped for transporting wounded, injured, or sick persons.
- g. Private passenger vehicles. All other passenger vehicles not included in the above definitions.

(28) Person. Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.

(29) Pneumatic Tire. Every tire in which compressed air is designed to support the load.

(30) Private Road or Driveway. Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.

(31) Property-Hauling Vehicles.

a. Exempt for-hire vehicles. Vehicles used for the transportation of property for hire but not licensed as common carriers or contract carriers of property under franchise certificates or permits issued by the Utilities Commission or by the Interstate Commerce Commission; provided, that the term 'for hire' shall include every arrangement by which the owner of a vehicle uses, or permits such vehicle to be used, for the transportation of the property of another for compensation, subject to the following exemptions:

1. The transportation of farm crops or products, including logs, bark, pulp, and tannic acid wood delivered from farms and forest to the first or primary market, and the transportation of wood chips from the place where wood has been converted into chips to their first or primary market.
2. The transportation of perishable foods which are still owned by the grower while being delivered to the first or primary market by an operator who has not more than one truck, truck-tractor, or trailer in a for-hire operation.
3. The transportation of merchandise hauled for neighborhood farmers incidentally and not as a regular business in going to and from farms and primary markets.
4. The transportation of T.V.A. or A.A.A. phosphate and/or agricultural limestone in bulk which is furnished as a grant of aid under the United States Agricultural Adjustment Administration.
5. The transportation of fuel for the exclusive use of the public schools of the State.
6. Vehicles whose sole operation in carrying the property of others is limited to the transportation of the United States mail pursuant to a contract, or the extension or renewal of such contract.
7. Vehicles leased for a term of one year or more to the same person when used exclusively by such person in transporting his own property.

b. Common carrier of property vehicles. Vehicles used for the transportation of property certified by the Utilities Commission or the Interstate Commerce Commission as common carriers.

c. Private hauler vehicles. Vehicles used for the transportation of property not falling within one of the above defined classifications; provided, self-propelled vehicles equipped with permanent living and sleeping facilities used exclusively for camping activities shall be classified as private passenger vehicles.

d. Semitrailers. Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so

constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.

- e. Trailers. Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including 'pole trailers' or a pair of wheels used primarily to balance a load rather than for purposes of transportation.
- f. Contract carrier of property vehicles. Vehicles used for the transportation of property under a franchise permit of a regulated contract carrier issued by the Utilities Commission or the Interstate Commerce Commission.

(32) Public Vehicular Area. Any drive, driveway, road, roadway, street, or alley upon the grounds and premises of any public or private hospital, college, university, school, orphanage, church, or any of the institutions maintained and supported by the State of North Carolina, or any of its subdivisions or upon the grounds and premises of any service station, drive-in theater, supermarket, store, restaurant or office building, or any other business, residential, or municipal establishment providing parking space for customers, patrons, or the public.

(33) Reconstructed Vehicles. Vehicles of a type required to be registered hereunder materially altered from their original construction by the removal, addition, or substitution of essential parts.

(34) Resident. Any person who resides within this State for other than a temporary or transitory purpose for more than six months shall be presumed to be a resident of this State; but absence from the State for more than six months shall raise no presumption that the person is not a resident of this State.

(35) Residential District. The territory prescribed as such by ordinance of the Board of Transportation.

(36) Revocation or Suspension. Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms 'Revocation' or 'Suspension' or a combination of both terms shall be used synonymously.

(37) Road Tractors. Vehicles designed and used for drawing other vehicles upon the highway and not so constructed as to carry any part of the load, either independently or as a part of the weight of the vehicle so drawn.

(38) Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term 'Roadway' as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(39) Safety Zone. Traffic island or other space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(40) Security Agreement. Written agreement which reserves or creates a security interest.

(41) Security Interest. An interest in a vehicle reserved or created by agreement and which secures payments or performance of an obligation. The term includes but is not limited to the interest of a chattel mortgagee, the interest of a vendor under a conditional sales contract, the interest of a trustee under a chattel deed of trust, and the interest of a lessor under a lease intended as security. A security interest is 'perfected' when it is valid against third parties generally.

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(42) Solid Tire. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(43) Specially Constructed Vehicles. Vehicles of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from their original construction.

(44) Special Mobile Equipment. Every truck, truck-tractor, trailer, or semitrailer on which have been permanently attached cranes, mills, well-boring apparatus, ditch-digging apparatus, air compressors, electric welders, or any similar type apparatus or which have been converted into living or office quarters, or other self-propelled vehicles which were originally constructed in a similar manner which are operated on the highway only for the purpose of getting to and from a nonhighway job and not for the transportation of persons or property or for hire. This shall also include trucks on which special equipment has been mounted and used by American Legion or Shrine Temples for parade purposes, trucks or vehicles privately owned on which fire-fighting equipment has been mounted and which are used only for fire-fighting purposes, and vehicles on which are permanently mounted feed mixers, grinders, and mills although there is also transported on the vehicle molasses or other similar type feed additives for use in connection with the feed-mixing, grinding, or milling process.

(45) State. A state, territory, or possession of the United States, District of Columbia, Commonwealth of Puerto Rico, or a Province of Canada.

(46) Street. The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms 'Highway' or 'Street' or a combination of the two terms shall be used synonymously.

(47) Suspension. Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms 'Revocation' or 'Suspension' or a combination of both terms shall be used synonymously.

(48) Truck Tractors. Vehicles designed and used primarily for drawing other vehicles and not so constructed as to carry any load independent of the vehicle so drawn.

(49) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application.

(50) Wreckers. Vehicles with permanently attached cranes used to move other vehicles; provided, that said wreckers shall be equipped with adequate brakes for units being towed."

**Sec. 2.** G.S. 20-17 is hereby amended by adding subdivisions (9) and (10) thereto, to read as follows:

"(9) Death by vehicle as defined in G.S. 20-141.4.

(10) Speeding in excess of 55 miles per hour and at least 15 miles per hour over the legal limit in violation of G.S. 20-141(j)."

**Sec. 3.** G.S. 20-140 is hereby rewritten to read as follows:

“§ 20-140. *Reckless driving.*—(a) Any person who drives any vehicle upon a highway or any public vehicular area carelessly and heedlessly in willful or wanton disregard of the rights or safety of others shall be guilty of reckless driving.

(b) Any person who drives any vehicle upon a highway or any public vehicular area without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property shall be guilty of reckless driving.

(c) Any person who operates a motor vehicle upon a highway or public vehicular area after consuming such quantity of intoxicating liquor as directly and visibly affects his operation of said vehicle shall be guilty of reckless driving and such offense shall be a lesser included offense of driving under the influence of intoxicating liquor as defined in G.S. 20-138 as amended.

(d) Any person convicted of reckless driving shall be punished by imprisonment not to exceed six months or by a fine, not to exceed five hundred dollars (\$500.00) or by both such imprisonment and fine, in the discretion of the court.”

**Sec. 4.** G.S. 20-140.2 is rewritten to read as follows:

“§ 20-140.2. *Overloaded or overcrowded vehicle.*—No person shall operate upon a highway or public vehicular area a motor vehicle which is so loaded or crowded with passengers or property, or both, as to obstruct the operator’s view of the highway or public vehicular area, including intersections, or so as to impair or restrict otherwise the proper operation of the vehicle.”

**Sec. 5.** Chapter 20 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 20-140.3. *Unlawful use of National System of Interstate and Defense Highways and other controlled-access highways.*—On those sections of highways which are or become a part of the National System of Interstate and Defense Highways and other controlled-access highways, it shall be unlawful for any person:

(1) To drive a vehicle over, upon, or across any curb, central dividing section or other separation or dividing line on said highways.

(2) To make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, separation section, or line on said highways.

(3) To drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line on said highways.

(4) To drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

(5) To stop, park, or leave standing any vehicle, whether attended or unattended, on any part or portion of the right-of-way of said highways, except in the case of an emergency or as directed by a peace officer, or at designated parking areas.

(6) To fail to yield the right-of-way when entering the highway to any vehicle already travelling on the highway.”

**Sec. 6.** Chapter 20 of the General Statutes is amended by inserting a new section to read as follows:

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“§ 20-140.4. *Special provisions for motorcycles.*—(a) No person shall operate a motorcycle upon a highway or public vehicular area:

- (1) When the number of persons upon such motorcycle, including the operator, shall exceed the number of persons which it was designed to carry.
- (2) Unless the operator and all passengers thereon wear safety helmets of a type approved by the Commissioner of Motor Vehicles.

(b) Violation of any provision of this section shall not be considered negligence per se or contributory negligence per se in any civil action.”

Sec. 7. G.S. 20-141 is rewritten to read as follows:

“§ 20-141. *Speed restrictions.*—(a) No person shall drive a vehicle on a highway or in a public vehicular area at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles, except school buses and school activity buses.

(c) Except while towing another vehicle, or when an advisory safe speed sign indicates a slower speed, or as otherwise provided by law, it shall be unlawful to operate a passenger vehicle upon the interstate and primary highway system at less than the following speeds:

- (1) Forty miles per hour in a speed zone of 55 miles per hour.
- (2) Forty-five miles per hour in a speed zone of 60 miles per hour or greater.

These minimum speeds shall be effective only when appropriate signs are posted indicating the minimum speed.

(d) (1) Whenever the Board of Transportation determines on the basis of an engineering and traffic investigation that any speed allowed by subsection (b) is greater than is reasonable and safe under the conditions found to exist upon any part of a highway outside the corporate limits of a municipality or upon any part of a highway designated as part of the Interstate Highway System or other controlled-access highway (either inside or outside the corporate limits of a municipality), the Board shall determine and declare a reasonable and safe speed limit.

(2) Whenever the Board of Transportation determines on the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe under the conditions found to exist upon any part of a highway designated as part of the Interstate Highway System or other controlled-access highway (either inside or outside the corporate limits of a municipality) the Board shall determine and declare a reasonable and safe speed limit. A speed limit set pursuant to this subsection may not exceed 70 miles per hour.

Speed limits set pursuant to this subsection are not effective until appropriate signs giving notice thereof are erected upon the parts of the highway affected.

(e) Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State Highway System; but no speed so

fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected.

(f) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State Highway System (except those highways designated as part of the Interstate Highway System or other controlled-access highway) said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Board of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

(g) Whenever the Board of Transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway considerably impede the normal and reasonable movement of traffic, the Board or such local authority may determine and declare a minimum speed below which no person shall operate a motor vehicle except when necessary for safe operation in compliance with law. Such minimum speed limit shall be effective when appropriate signs giving notice thereof are erected on said part of the highway. Provided, such minimum speed limit shall be effective as to those highways and streets within the corporate limits of a municipality which are on the State highway system only when ordinances adopting the minimum speed limit are passed and concurred in by both the Board of Transportation and the local authorities. The provisions of this subsection shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(h) No person shall operate a motor vehicle on the highway at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law; provided, this provision shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(i) The Board of Transportation shall have authority to designate and appropriately mark certain highways of the State as truck routes.

(j) Any person convicted of violating this section by operating a vehicle on a street or highway in excess of 55 miles per hour and at least 15 miles per hour over the legal limit while fleeing or attempting to elude arrest or apprehension by a law enforcement officer with authority to enforce the motor vehicle laws shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or imprisonment for not more than two years, or both, in the discretion of the court."

Sec. 8. G.S. 20-141.3(g) is amended by inserting a new paragraph, between the present first and second paragraphs of said subsection, to read as follows:

"Notwithstanding the provisions for sale set out above, on petition by a lienholder, the court, in its discretion and upon such terms and conditions as it may prescribe, may allow reclamation of the vehicle by the lienholder. The

lienholder shall file with the court an accounting of the proceeds of any subsequent sale of the vehicle and pay into the court any proceeds received in excess of the amount of the lien.”

**Sec. 9.** Chapter 20 of the General Statutes is amended by inserting a new section to read as follows:

“§ 20-141.4. *Death by vehicle.*—(a) Whoever shall unintentionally cause the death of another person while engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic shall be guilty of death by vehicle when such violation is the proximate cause of said death.

(b) A violation of this section shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than two years, or both, in the discretion of the court.

(c) No person who has been placed in jeopardy upon a charge of death by vehicle shall subsequently be prosecuted for the offense of manslaughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter shall subsequently be prosecuted for death by vehicle arising out of the same death.”

**Sec. 10.** G.S. 20-142 is rewritten to read as follows:

“§ 20-142. *Railroad warning signals must be obeyed.*—Whenever any person driving a vehicle approaches a railway grade crossing, and any signal given by a mechanical or electrical device, gate, or flagman indicates the approach of a train or railroad car, it shall be unlawful for the driver to fail to bring the vehicle to a complete stop and ascertain that further movement can be made in safety before traversing such grade crossing.”

**Sec. 11.** G.S. 20-143 is rewritten to read as follows:

“§ 20-143. *Vehicles must stop at certain railway grade crossings.*—The Board of Transportation or local authorities are hereby authorized to designate dangerous railroad grade crossings and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 10 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.”

**Sec. 12.** G.S. 20-143.1 is hereby amended as follows:

(1) By deleting from the catchline the word “all”; and

(2) By deleting from the fourth line of subsection (b) the words “as defined in G.S. 20-38(1)”; and

(3) By deleting from the sixth line of subsection (d) the word “ALL”.

**Sec. 13.** G.S. 20-146 is hereby amended as follows:

(1) By deleting from the second, third, eleventh, thirteenth, seventeenth, twentieth, twenty-second, and twenty-third lines thereof the word “roadway” and inserting in lieu thereof the word “highway”; and

(2) By deleting from the fourteenth line thereof the word “roadways” and inserting in lieu thereof the word “highways”; and

(3) By deleting from the fourteenth and fifteenth lines thereof the words “normal speed of traffic at the time and place and under the condition then existing” and inserting in lieu thereof the words “legal maximum speed limit”; and

(4) By adding a new subsection (d) to read as follows:

“(d) Whenever any street has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a street which is divided into three or more lanes and provides for the two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in the preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control device.
- (3) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the street and drivers of vehicles shall obey the direction of every such device.
- (4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of streets, and drivers of vehicles shall obey the directions of every such device.”

**Sec. 14.** G.S. 20-146.1 is amended by deleting the last paragraph thereof.

**Sec. 15.** G.S. 20-149(b) is rewritten to read as follows:

“(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.”

**Sec. 16.** G.S. 20-150 is amended by adding a new subsection (f) to read as follows:

“(f) The foregoing limitations shall not apply upon a one-way street nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.”

**Sec. 17.** G.S. 20-152 is rewritten to read as follows:

“§ 20-152. *Following too closely.*—(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor vehicle traveling upon a highway outside of a business or residential district and following another motor vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor vehicle from overtaking and passing another motor vehicle. This provision shall not apply to funeral processions.”

**Sec. 18.** G.S. 20-153 is rewritten to read as follows:

“§ 20-153. *Turning at intersections.*—(a) Right Turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left Turns. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle,

and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) Local authorities and the Board of Transportation, in their respective jurisdictions, may modify the foregoing method of turning at intersections by clearly indicating by buttons, markers, or other direction signs within an intersection the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in a manner as so directed.”

**Sec. 19.** G.S. 20-154 is amended as follows:

(1) By adding at the end of subsection (a) a new sentence to read as follows:

“The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.”; and

(2) by replacing the colon(:) after the word “Department” in the sixth line of subsection (b) with a period (.) and by deleting the balance of lines 6 through 12.

(3) By adding a new subsection (d) to read as follows:

“A violation of this section shall not constitute negligence per se.”

**Sec. 20.** G.S. 20-155 is amended by rewriting subsections (a) and (b) thereof to read as follows:

“(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close as to constitute an immediate hazard.”

**Sec. 21.** G.S. 20-156 is amended by rewriting subsection (a) thereof to read as follows:

“(a) The driver of a vehicle about to enter or cross a highway from an alley, building entrance, private road, or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.”

**Sec. 22.** G.S. 20-158 is rewritten to read as follows:

“§ 20-158. *Vehicle control signs and signals.*—(a) The Board of Transportation, with reference to State highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to control vehicles:

(1) At intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop at the entrance to that portion of the intersection designated as the main traveled or through highway. Stop signs may also be erected at three or more entrances to an intersection.

(2) At appropriate places other than intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop.

(3) At intersections and other appropriate places, by erecting or installing steady beam stop lights and other traffic control devices, signs, or signals. All steady beam stop lights emitting alternate red and green lights shall be arranged so that the red light shall appear at the top of the signaling unit and the green light shall appear at the bottom of the signaling unit.

(4) At intersections and other appropriate places, by erecting or installing flashing red or yellow lights.

(b) Control of Vehicles at Intersections.

- (1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main traveled or through highway. When stop signs have been erected at three or more entrances to an intersection the driver, after stopping in obedience thereto, may proceed with caution.
- (2) When a stop light has been erected or installed at an intersection, and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the stop light is emitting a steady yellow light, vehicles facing the yellow light shall be warned that a red light will be immediately forthcoming and that vehicles may not enter the intersection on such a red light. When the stop light is emitting a steady green light, vehicles may proceed through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
- (3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.
- (4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.
- (5) When a stop sign, stop light, flashing light, or other traffic control device authorized by subsection (a) requires a vehicle to stop at an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked cross walk, or if none, before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.

(c) Control of Vehicles at Places other than Intersections.

- (1) When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians and other vehicles.
- (2) When a stop light has been erected or installed at a place other than an intersection, and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the stop light is emitting a steady yellow light, vehicles facing the light shall be warned that a red light will be immediately forthcoming and that vehicles may not proceed through such a red light. When the stop light is emitting a steady green light, vehicles may proceed subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
- (3) When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.
- (4) When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may

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proceed with caution, yielding the right-of-way to pedestrians and other vehicles.

- (5) When a stop light, stop sign, or other signaling device authorized by subsection (a) requires a vehicle to stop at a place other than an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked cross walk, or if none, before proceeding past the signaling device.

(d) No failure to stop as required by the provisions of this section shall be considered negligence or contributory negligence per se in any action at law for injury to person or property, but the facts relating to such failure to stop may be considered with the other facts in the case in determining whether a party was guilty of negligence or contributory negligence."

**Sec. 23.** G.S. 20-158.1 is amended by deleting the last sentence thereof.

**Sec. 24.** G.S. 20-160 is rewritten to read as follows:

"§ 20-160. *Driving through safety zone or on sidewalks prohibited.*—(a) The driver of a vehicle shall not at any time drive through or over a safety zone.

(b) No person shall drive any motor vehicle upon a sidewalk or sidewalk area except upon a permanent or temporary driveway."

**Sec. 25.** G.S. 20-161 is amended as follows:

(1) By inserting in subsection (a) after the word "bridge" in the third line thereof the words "outside municipal corporate limits"; and

(2) By inserting in subsection (b) after the word "highway" in the second line thereof the words "outside municipal corporate limits"; and

(3) By rewriting subsection (d) to read as follows:

"(d) The owner of any vehicle parked or left standing in violation of law shall be deemed to have appointed any investigating law enforcement officer his agent:

(1) for the purpose of removing the vehicle to the shoulder of the highway or to some other suitable place; and

(2) for the purpose of arranging for the transportation and safe storage of any vehicle which is interfering with the regular flow of traffic or which otherwise constitutes a hazard, in which case the officer shall be deemed a legal possessor of the vehicle within the meaning of G.S. 44A-2(d)."

**Sec. 26.** G.S. 20-163 is rewritten to read as follows:

"§ 20-163. *Unattended motor vehicles.*—No person driving or in charge of a motor vehicle shall permit it to stand unattended on a public highway or public vehicular area without first stopping the engine, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway."

**Sec. 27.** G.S. 20-165 is rewritten to read as follows:

"§ 20-165. *Coasting prohibited.*—The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of such vehicle in neutral, or with the clutch disengaged."

**Sec. 28.** G.S. 20-165.1 is amended by deleting the last sentence thereof.

**Sec. 29.** G.S. 20-166.1 is amended as follows:

(1) By deleting the word "coroner" from the first and fourth lines of subsection (f) and by inserting in lieu thereof the words "medical examiner"; and

(2) By deleting from the second line of subsection (h) and from the eighth line of subsection (i) the word “coroner” and inserting in lieu thereof the words “medical examiner”.

**Sec. 30.** G.S. 20-168 is rewritten to read as follows:

“§ 20-168. *Drivers of State, county, and city vehicles subject to the provisions of this Article.*—(a) Subject to the exceptions in subsection (b), the provisions of this Article applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the State or any political subdivision thereof.

(b) While actually engaged in maintenance or construction work on the highways, but not while traveling to or from such work, drivers of vehicles owned or operated by the State or any political subdivision thereof are exempt from all provisions of this Article except:

- (1) G.S. 20-138. Persons under the influence of intoxicating liquor.
- (2) G.S. 20-139. Persons under the influence of drugs.
- (3) G.S. 20-139.1. Result of a chemical analysis admissible in evidence; presumption.
- (4) G.S. 20-140. Reckless driving.
- (5) G.S. 20-140.4. Death by vehicle.
- (6) G.S. 20-141. Speed restrictions.”

**Sec. 31.** G.S. 20-172 is rewritten to read as follows:

“§ 20-172. *Pedestrians subject to traffic control signals.*—(a) The State Highway Commission, with reference to State highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to erect or install, at intersections or other appropriate places, special pedestrian control signals exhibiting the words ‘WALK’ or ‘DON’T WALK’ as a part of a system of traffic control signals or devices.

(b) Whenever special pedestrian control signals are in place, such signals shall indicate as follows:

- (1) WALK. Pedestrians facing such signal may proceed across the highway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) DON’T WALK. No pedestrian shall start to cross the highway in the direction of such signal, but any pedestrian who has partially completed his crossing on the ‘WALK’ signal shall proceed to a sidewalk or safety island while the ‘DON’T WALK’ signal is showing.

(c) Where a system of traffic control signals or devices does not include special pedestrian control signals, pedestrians shall be subject to the vehicular traffic control signals or devices as they apply to pedestrian traffic.

(d) At places without traffic control signals or devices, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in Part 11 of this Article.”

**Sec. 32.** G.S. 20-173 is amended by rewriting subsection (a) and adding subsection (c) to read as follows:

“(a) Where traffic control signals are not in place or in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at or near an intersection, except as otherwise provided in Part 11 of this Article.

(c) The driver of a vehicle emerging from or entering an alley, building entrance, private road, or driveway shall yield the right-of-way to any pedestrian, or person riding a bicycle, approaching on any sidewalk or walkway extending across such alley, building entrance, road, or driveway.”

**Sec. 33.** G.S. 20-174 is amended by rewriting subsection (d) to read as follows:

“(d) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the extreme left of the roadway or its shoulder facing traffic which may approach from the opposite direction. Such pedestrian shall yield the right-of-way to approaching traffic.”

**Sec. 34.** G.S. 20-176(b) is amended by deleting the last sentence thereof.

**Sec. 35.** G.S. 20-217 is rewritten to read as follows:

“§ 20-217. *Motor vehicles to stop for properly marked and designated school buses in certain instances.*—The driver of any vehicle upon approaching from any direction on the same street or highway any school bus (including privately owned buses transporting children), while such bus is displaying its mechanical stop signal, or is stopped for the purpose of receiving or discharging passengers, shall bring his vehicle to a full stop before passing or attempting to pass such bus, and shall remain stopped until the mechanical stop signal has been withdrawn or until the bus has moved on. The driver of a vehicle upon any Interstate or other controlled-access highway need not stop upon meeting or passing a school bus which is in the roadway across the dividing space or physical barrier separating the roadways.

The provisions of this section are applicable only in the event the school bus bears upon the front and rear a plainly visible sign containing the words ‘school bus’ in letters not less than eight inches in height.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed two hundred dollars (\$200.00) or imprisoned not to exceed 90 days.”

**Sec. 36.** G.S. 20-162.2 and G.S. 20-162.3 are hereby transferred and renumbered as G.S. 20-219.1 and G.S. 20-219.2 respectively.

**Sec. 37.** G.S. 20-279(14) is amended by deleting the last paragraph thereof.

**Sec. 38.** Chapter 14 of the General Statutes is amended by adding a new section to read as follows:

“§ 14-83. *Unauthorized use of a conveyance.*—(a) A person is guilty of an offense under this section if, without the consent of the owner, he takes, operates, or exercises control over an aircraft, motorboat, motor vehicle, or other motor-propelled conveyance of another.

(b) Consent may not be presumed or implied because of the consent of the owner on a previous occasion to the taking, operating, or exercising control of a conveyance given to the person charged or to another person.

(c) Unauthorized use of an aircraft is a felony punishable by a fine, imprisonment not to exceed five years, or both, in the discretion of the court. All other unauthorized use of a conveyance is a misdemeanor punishable by a fine, imprisonment not to exceed two years, or both, in the discretion of the court.

(d) An offense under this section may be treated as a lesser-included offense of the offense of larceny of a conveyance.

(e) As used in this section, 'owner' means any person with an interest in property such that it is property of another as far as the person accused of the offense is concerned."

**Sec. 39.** The following sections of the General Statutes and all other laws and clauses of laws in conflict with this act are repealed:

- G.S. 20-6
- G.S. 20-38
- G.S. 20-105
- G.S. 20-116(i)
- G.S. 20-124(b)
- G.S. 20-140.1
- G.S. 20-141.1
- G.S. 20-159
- G.S. 20-164
- G.S. 20-175(c)
- G.S. 20-175.4
- G.S. 20-180
- G.S. 20-215.1(3)
- G.S. 20-279.1(1)
- G.S. 20-279.1(4)
- G.S. 20-279.1(5)
- G.S. 20-279.1(6)
- G.S. 20-279.1(8)
- G.S. 20-279.1(9)
- G.S. 20-279.1(10)
- G.S. 20-279.1(12)
- G.S. 20-286(1)
- G.S. 20-286(2)
- G.S. 20-286(9)
- G.S. 20-286(14)

**Sec. 40.** Section 11 shall be effective upon ratification and all other parts of this act shall be effective on January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1076                      CHAPTER 1331**

AN ACT TO ESTABLISH PROCEDURES FOR THE CONDUCT OF PROCEEDINGS BEFORE ADMINISTRATIVE AGENCIES AND TO ESTABLISH A CODE OF ADMINISTRATIVE REGULATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 150 of the General Statutes is hereby rewritten to read as follows:

- “Chapter 150.
- “Administrative Procedure Act.
- “Article 1.
- “General Provisions.

“§ 150-1. *Scope and policy.*—(a) This Chapter shall apply except to the extent and in the particulars that any statute makes specific provisions to the contrary. The following are specifically exempted from the provisions of this Chapter: the

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Employment Security Commission; the Industrial Commission; the Occupational Safety and Health Review Board; and the Utilities Commission. However, Articles 2 and 3 of this Chapter shall not apply to the Department of Motor Vehicles or the Department of Revenue.

(b) The purpose and intent of this Chapter shall be to establish as nearly as possible a uniform system of administrative procedure for State agencies.

“§ 150-2. *Definitions.*—As used in this Chapter,

(1) ‘Agency’ means every agency, institution, board, commission, bureau, department, division, council, member of Council of State, or officer of the State government of the State of North Carolina but does not include those agencies in the legislative or judicial branches of the State government; and does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivisions, or county or city boards of education, other local public districts, units or bodies of any kind, or private corporations created by act of the General Assembly.

(2) ‘Contested case’ is any agency proceeding, by whatever name called, wherein the legal rights, duties or privileges of specific parties are to be determined. Contested cases include, but are not limited to, proceedings involving rate making, price fixing and licensing. Contested cases shall not be deemed to include rule making and declaratory rulings.

(3) ‘License’ means any certificate, permit or other evidence, by whatever name called, of a right or privilege to engage in a trade, occupation, or other activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes.

(4) ‘Licensing’ means any administrative action issuing, failing to issue, suspending or revoking a license.

(5) ‘Party’ means each person or agency named or admitted as a party or properly seeking as of right to be admitted as a party and includes the hearing agency where appropriate; provided, this shall not be construed to permit the hearing agency or any of its officers or employees to appeal its own decision for initial judicial review.

(6) ‘Person aggrieved’ means any person, firm, corporation, or group of persons of common interest who are directly or indirectly affected substantially in their person, property, or public office or employment by an agency decision.

(7) ‘Person’ means any natural person, partnership, corporation, body politic and any unincorporated association, organization, or society which may sue or be sued under a common name.

(8) ‘Residence’ means domicile or principal place of business.

“§ 150-3. *Special provisions on licensing.*—(a) When a licensee makes timely and sufficient application for renewal of a license or a new license (including the payment of any required license fee) with reference to activity of a continuing nature, the existing license does not expire until a decision on the application is finally made by the agency, and if the application is denied or the terms of the new license are limited, until the last day for applying for judicial review of the agency order. This subsection does not affect agency action summarily suspending such license under subsections (b) and (c) of this section.

(b) Before the commencement of proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, an agency shall give notice to the licensee, pursuant to the provisions of G.S. 150-21(c), of alleged facts or alleged conduct which warrant the intended action.

The licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license.

(c) If the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last-known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

Nothing in this subsection shall be construed as amending or repealing any special statutes, in effect prior to the effective date of this Chapter, which provide for the summary suspension of a license.

§ 150-4 through § 150-10 (reserved for future codification purposes).

“Article 2.

“Rule Making.

“§ 150-11. *Minimum procedural requirements.*—It is the intent of this Article to establish basic minimum procedural requirements for the adoption, amendment, or repeal of administrative rules. Except for emergency rules which are provided for in G.S. 150-15, the provisions of this Article are applicable to the exercise of any rule-making authority conferred by any statute, but nothing in this Article repeals or diminishes additional requirements imposed by law or any summary power granted by law to the State or any agency thereof. No rule hereafter adopted is valid unless adopted in substantial compliance with this Article.

“§ 150-12. *Definition.*—As used in this Article, ‘rule’ means each agency regulation, standard or statement of general applicability that implements or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include the following:

- (1) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;
- (2) Declaratory rulings issued pursuant to G.S. 150-19;
- (3) Intra-agency memoranda, except those to agency staff which implement or prescribe law or policy;
- (4) Statements of policy or interpretations that are made in the decision of a contested case;
- (5) Rules concerning the use or creation of public roads or facilities which are communicated to the public by use of signs or symbols;
- (6) Interpretative rules and general statements of policy of the agency.

“§ 150-13. *Special requirements.*—In addition to other rule-making requirements imposed by law, each agency shall:

- (1) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency.
- (2) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions.
- (3) With respect to all final orders, decisions, and opinions made after the effective date of this Article, make available for public inspection together with all materials that were before the deciding officers at the time the final order,

decision, or opinion was made, except materials properly for good cause held confidential.

“§ 150-14. *Procedure for adoption of rules.*—(a) Before the adoption, amendment or repeal of a rule, an agency shall give notice of a public hearing and offer any person an opportunity to present data, views, and arguments. The notice shall be given within the time prescribed by any applicable statute, or if none then at least 10 days before the public hearing and at least 20 days before the adoption, amendment, or repeal of the rule. The notice shall include:

- (1) A reference to the statutory authority under which the action is proposed.
- (2) The time and place of the public hearing and a statement of the manner in which data, views, and arguments may be submitted to the agency either at the hearing or at other times by any person.
- (3) A statement of the terms or substance of the proposed rule or a description of the subjects and issues involved, and the proposed effective date of the rule.

(b) The agency shall transmit copies of the notice to the Attorney General and all persons who have requested the agency in writing for advance notice of proposed action which may affect them. The notices shall be in writing and shall be forwarded by mail or otherwise to the last address specified by the person.

(c) The agency shall publish the notice as prescribed in any applicable statute or, if none, shall publish the notice in a manner selected by the agency as best calculated to give notice to persons likely to be affected by the proposed rule. Methods that may be employed by the agency, depending upon the circumstances, include publication of the notice in one or more newspapers of general circulation or, when appropriate, in trade, industry, governmental or professional publications. If the persons likely to be affected by the proposed rule are unorganized or diffuse in character and location, then the agency shall publish the notice as a display advertisement in at least three newspapers of general circulation in different parts of the State.

(d) The public hearing shall comply with any applicable statute but is not subject to the provisions of this Chapter governing contested cases, unless a rule is required by law to be adopted pursuant to adjudicatory procedures.

(e) The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the consideration urged against its adoption.

“§ 150-15. *Emergency rules.*—If any agency finds that an imminent peril to the public health, safety, or welfare requires adoption, amendment, or repeal of a rule, without notice or upon fewer than 20 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. This rule may be effective for a period of not longer than 120 days but the adoption of an identical rule under G.S. 150-14 is not precluded.

“§ 150-16. *Adoption by reference.*—An agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard or regulation which has been adopted by an agency of this State or of the United States or by a generally recognized organization or association. The

reference shall fully identify the adopted matter by date and otherwise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule, it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and the rules shall state where copies of the adopted matter can be obtained and any charge therefor as of the time the rule is adopted.

“§ 150-17. *Continuation of rules.*—When a law authorizing or directing an agency to promulgate rules is repealed and substantially the same rule-making power or duty is vested in the same or a successor agency by a new provision of law or the function of the agency to which the rules are related is transferred to another agency, by law or executive order, the existing rules of the original agency relating thereto continue in effect until amended or repealed, and the agency or successor agency may repeal any rule relating to the function. When a law creating an agency or authorizing or directing it to promulgate rules is repealed or the agency is abolished and substantially the same rule-making power or duty is not vested in the same or a successor agency by a new provision of law and the function of the agency to which the rules are related is not transferred to another agency, the existing applicable rules of the original agency are automatically repealed as of the effective date of the repeal of such law or the abolition of the agency.

“§ 150-18. *Petition for adoption of rules.*—Any person may petition an agency requesting the promulgation, amendment, or repeal of a rule, and may accompany his petition with such data, views, and arguments as he thinks pertinent. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within 30 days after submission of a petition, the agency either shall deny the petition in writing (stating its reasons for the denial) or shall initiate rule-making proceedings in accordance with G.S. 150-14 and G.S. 150-15. Denial of the petition to initiate rule making under this section shall be considered a final agency decision for purposes of judicial review, which shall be limited to questions of abuse of discretion.

“§ 150-19. *Declaratory rulings.*—On request of a person aggrieved, an agency shall issue a declaratory ruling as to the validity of a rule or as to the applicability to a given state of facts of a statute administered by the agency or of a rule or order of the agency, except when the agency for good cause finds issuance of a ruling undesirable. The agency shall prescribe in its rules the circumstances in which rulings shall or shall not be issued. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by the court. An agency may not retroactively change a declaratory ruling, but nothing in this subsection prevents an agency from prospectively changing a declaratory ruling. A declaratory ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case. Failure of the agency to issue a declaratory ruling on the merits within 60 days of the request for such ruling shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.

§ 150-20. (Reserved for future codification purposes).

“Article 3.

“Administrative Hearings.

“§ 150-21. *Hearing required; notice; intervention.*—(a) The parties in a contested case shall be given an opportunity for a hearing without undue delay.

(b) The parties shall be given a reasonable notice of the hearing, which notice shall include:

- (1) A statement of the date, hour, place, and nature of the hearing;
- (2) A reference to the particular sections of the statutes and rules involved; and
- (3) A short and plain statement of the factual allegations.

(c) Notice shall be given personally or by registered mail. If given by registered mail, it shall be deemed to have been given on the date appearing on the return receipt. If giving of notice cannot be accomplished either personally or by registered mail, notice shall then be given as provided in G.S. 1A-1, Rule 4(j).

(d) Any person may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24. In addition, any person interested in an agency proceeding may intervene and participate in that proceeding to the extent deemed appropriate by the hearing agency.

(e) All hearings under this Chapter shall be open to the public.

“§ 150-22. *Venue of hearing.*—When a hearing on a contested case is conducted by a hearing officer or less than a majority of an agency, the hearing shall be conducted in a county in this State in which any person whose property or rights are the subject matter of the hearing maintains his residence.

If the hearing is conducted by a majority of the agency, then the hearing shall be held in the county where the agency maintains its principal office.

When a different county would promote the ends of justice or better serve the convenience of witnesses, the agency hearing the case may in its discretion designate another county. In any case, however, the person whose property or rights are involved and the agency hearing the case may agree that the hearing is to be held in some other county.

The person whose property or rights are the subject matter of the hearing shall not be deemed to have waived any objection to venue merely by proceeding in the hearing.

“§ 150-23. *Conduct of hearing; answer.*—(a) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

(b) A party who has been served with a notice of hearing may file a written answer before the date set for hearing.

(c) The parties shall be given an opportunity to present arguments on issues of law and policy and an opportunity to present evidence on issues of fact.

(d) A party may cross-examine any witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence. A party may submit rebuttal evidence.

“§ 150-24. *Consolidation.*—When contested cases involving a common question of law or fact or multiple proceedings involving the same or related parties are pending before an agency, the agency may order a joint hearing of any or all of the matters in issue in the cases, may order all of the cases consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

“§ 150-25. *Subpoena*.—An agency is hereby authorized to issue subpoenas upon its own motion or upon a written request. When such written request is made by a party in a contested case, an agency shall issue subpoenas forthwith requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence, and documents in their possession or under their control. On written request, the agency shall revoke a subpoena if, upon a hearing the agency finds that the evidence, the production of which is required, does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. Witness fees shall be paid by the party requesting the subpoena to subpoenaed witnesses in accordance with G.S. 7A-314.

“§ 150-26. *Depositions and discovery*.—(a) A deposition may be used in lieu of other evidence when taken in compliance with the Rules of Civil Procedure, G.S. 1A-1. An agency authorized to adjudicate contested cases may adopt rules providing for discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1.

(b) On a request for identifiable agency records, with respect to material facts involved in a contested case, except records related solely to the internal procedures of the agency or which are exempt from disclosure by law, an agency shall make such records promptly available to a party.

“§ 150-27. *Rules of evidence*.—(a) In all contested cases, irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the Trial Division of the General Court of Justice shall be followed; but, when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available. It shall not be necessary for a party or his attorney to object at the hearing to evidence in order to preserve the right to object to its consideration by the agency in reaching its decision, or by the court on judicial review.

(b) Evidence in a contested case, including records and documents, shall be offered and made a part of the record. Other factual information or evidence shall not be considered in determination of the case, except as permitted under G.S. 150-28. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

“§ 150-28. *Official notice*.—Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. The noticed fact and its source shall be stated and made known to affected parties at the earliest practicable time, and any party shall on timely request be afforded an opportunity to dispute the noticed fact through submission of evidence and argument. An agency may use its experience, technical competence, and specialized knowledge in the evaluation of evidence presented to it.

“§ 150-29. *Stipulations*.—(a) The parties in a contested case by a stipulation in writing filed with the agency may agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties should agree upon facts when practicable.

(b) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.

“§ 150-30. *Designation of hearing officer.*—(a) An agency, one or more members of the agency, a person or group of persons designated by statute or one or more hearing officers designated and authorized by the agency to handle contested cases, shall be hearing officers in contested cases. Hearings shall be conducted in an impartial manner.

(b) On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a hearing officer, the agency shall determine the matter as a part of the record in the case, and its determination shall be subject to judicial review at the conclusion of the proceeding.

(c) When a hearing officer is disqualified or it is impracticable for him to continue the hearing, another hearing officer shall be assigned to continue with the case unless it is shown that substantial prejudice to any party will result therefrom, in which event a new hearing shall be held or the case dismissed without prejudice.

“§ 150-31. *Powers of hearing officer.*—A hearing officer may:

(1) Administer oaths and affirmations;

(2) Sign and issue subpoenas in the name of the agency, requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence;

(3) Provide for the taking of testimony by deposition;

(4) Regulate the course of the hearings, set the time and place for continued hearings, and fix the time for filing of briefs and other documents;

(5) Direct the parties to appear and confer to consider simplification of the issues by consent of the parties; and

(6) Apply to the General Court of Justice, Superior Court Division, during or subsequent to a hearing for an order to show cause why any person should not be held in contempt of the agency and its processes, and the Court shall have the power to impose punishment as for contempt for acts which would constitute direct or indirect contempt if the acts occurred in an action pending in superior court.

“§ 150-32. *Proposal for decision.*—(a) When the official or a majority of the officials of the agency who are to make a final decision have not heard a contested case, the decision shall not be made until a proposal for decision is served on the parties, and an opportunity is given to each party to file exceptions and proposed findings of fact and to present oral and written arguments to the officials who are to make the decision.

(b) The proposal for decision shall contain proposed findings of fact and proposed conclusions of law. This proposal for decision shall be prepared by a person who conducted the hearing unless he becomes unavailable to the agency. If no such person is available, the findings may be prepared by one who has read the record, unless demeanor of witnesses is a factor. If demeanor is a factor, the portions of the hearing involving demeanor shall be held again, or the case shall be dismissed without prejudice.

(c) The parties, by written stipulation or at the hearing, may waive compliance with this section.

“§ 150-33. *No ex parte communication; exceptions.*—Unless required for disposition of an *ex parte* matter authorized by law, a member or employee of an

agency assigned to make a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party or his representative, nor, in connection with any issue of law, with any party or his representative, except on notice and opportunity for all parties to participate. This prohibition begins at the time of the notice of hearing. An agency member may communicate with other members of the agency and may have the aid and advice of the agency staff other than the staff which has been or is engaged in investigating or prosecuting functions in connection with the case under consideration or a factually related case. This section does not apply to an agency employee, or party representative with professional training in accounting, actuarial science, economics, financial analysis, or rate making in a contested case insofar as the case involves rate making or financial practices or conditions.

“§ 150-34. *Final agency decision.*—A final decision or order of an agency in a contested case shall be made, after review of the official record as defined in G.S. 150-35(a), in writing and shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and shall be supported by substantial evidence admissible under G.S. 150-27(a) or G.S. 150-28 or G.S. 150-29. A copy of the decision or order shall be served upon each party personally or by registered mail and a copy furnished to his attorney of record.

“§ 150-35. *Official record.*—(a) An agency shall prepare an official record of a hearing which shall include:

- (1) Notices, pleadings, motions, and intermediate rulings;
- (2) Questions and offers of proof, objections, and rulings thereon;
- (3) Evidence presented;
- (4) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
- (5) Proposed findings and exceptions; and
- (6) Any decision, opinion, order, or report by the officer presiding at the hearing and by the agency.

(b) Proceedings at which oral evidence is presented shall be recorded, but need not be transcribed unless requested by a party. Each party shall bear the cost of the transcript or part thereof or copy of said transcript or part thereof which said party requests.

§ 150-36 through § 150-40 (Reserved for future codification purposes).

#### “Article 4.

#### “Judicial Review.

“§ 150-41. *Right to judicial review.*—Any person who is aggrieved by a final agency decision in a contested case, and who has exhausted all administrative remedies made available to him by statute or agency rule, is entitled to judicial review of such decision under this Article, unless adequate procedure for judicial review is provided by some other statute, in which case the review shall be under such other statute. Nothing in this Chapter shall prevent any person from

invoking any judicial remedy available to him under the law to test the validity of any administrative action not made reviewable under this Article.

“§ 150-42. *Right to judicial intervention when agency unreasonably delays decision.*—Unreasonable delay on the part of any agency in reaching a final decision shall be justification for any person whose rights, duties, or privileges are adversely affected by such delay to seek a court order compelling action by the agency.

“§ 150-43. *Manner of seeking review; time for filing petition; waiver.*—In order to obtain judicial review of a final agency decision under this Chapter, the person seeking review must file a petition in the Superior Court of Wake County; except that where the original determination in the matter was made by a local agency or local board and appealed to the State Board, the petition may be filed in the superior court of the county where the original determination was made. Such petition may be filed at any time after final decision, but must be filed not later than 30 days after a written copy of the decision is served upon the person seeking the review by personal service or by registered mail. Failure to file such petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter, except that for good cause shown, the judge of the superior court may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver.

“§ 150-44. *Contents of petition; copies served on all parties; intervention.*—The petition shall explicitly state what exceptions are taken to the decision or procedure of the agency and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by personal service or by registered mail upon the agency which rendered the decision, and upon all who were parties of record to the agency proceedings. Names and addresses of such parties shall be furnished to the petitioner by the agency upon request. Any party to the agency proceeding may become a party to the review proceedings by notifying the court within 10 days after receipt of the copy of the petition.

Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

“§ 150-45. *Record filed by agency with clerk of superior court; contents of record; costs.*—Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. With the permission of the court, the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for such additional costs as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

“§ 150-46. *Stay of board order.*—At any time before or during the review proceeding, the person aggrieved may apply to the reviewing court for an order staying the operation of the agency decision pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper and subject to the provisions of G.S. 1A-1, Rule 65.

“§ 150-47. *Procedure for taking newly discovered evidence.*—At any time after petition for review has been filed, application may be made to the

reviewing court for leave to present additional evidence. If the court is satisfied that the evidence is material to the issues, that it is not merely cumulative, and that it could not reasonably have been presented at the hearing before the agency, the court may remand the case to the agency where additional evidence shall be taken. The agency may then affirm or modify its findings of fact and its decision, and shall file with the reviewing court as a part of the record the additional evidence, together with the affirmation, or any modifications, of its findings or decision.

“§ 150-48. *Review by court without jury on the record.*—The review of agency decisions under this Chapter shall be conducted by the court without a jury. The court shall hear oral arguments and receive written briefs, but shall take no evidence not offered at the hearing; except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken by the court; and except that where no record was made of the administrative proceeding or the record is inadequate, the judge in his discretion may hear all or part of the matter *de novo*.

“§ 150-49. *Scope of review; power of court in disposing of case.*—The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150-27(a) or G.S. 150-28 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become a part of the record, the reasons for such reversal or modification.

“§ 150-50. *Appeal to Appellate Division; obtaining stay of court's decision.*—Any party to the review proceedings, including the agency, may appeal to the Appellate Division from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay of its final determination, or a stay of the agency decision, whichever shall be appropriate, pending the outcome of the appeal to the Appellate Division.

“Article 5.

“Publication of Administrative Rules.

“§ 150-51. *Short title and definition.*—(a) This Article may be cited as ‘The Registration of State Administrative Rules Act.’

(b) As used in this Article, ‘rule’ means every rule, regulation, ordinance, standard, and amendment thereto adopted by any agency and shall include rules and regulations regarding substantive matters, standards for products, procedural rules for complying with statutory or regulatory authority or requirements and executive orders of the Governor.

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'Rule' shall not include:

- (1) Rules, procedures, or regulations which relate only to the internal management of any agency;
- (2) Directives or advisory opinions to any specifically named person or group with no general applicability throughout the State;
- (3) Dispositions of any specific issue or matter by the process of adjudication; and
- (4) Orders establishing or fixing rates or tariffs.

"§ 150-52. *Filing of rules.*—(a) Rules adopted by any agency on or after July 1, 1975, shall be filed with the Attorney General. All rules shall become effective 30 days after filing, unless the agency shall certify the existence of good cause for, and shall specify, an earlier or later effective date. The certification shall state the agency's finding and reasons. An earlier effective date shall not precede the date of filing.

(b) The acceptance for filing of a rule by the Attorney General, by his notation on the face thereof, shall constitute *prima facie* evidence of compliance with this Article.

(c) Rules previously in existence shall be ineffective after June 30, 1975, except that they shall immediately become effective upon filing in accordance with the provisions of this Article.

"§ 150-52.1. *Form of rules.*—In order to be acceptable for filing, the rule must:

- (1) Cite the statute or other authority pursuant to which the rule is adopted;
- (2) Bear a certification by the agency of its adoption;
- (3) Cite any prior rule or rules of the agency or its predecessor in authority which it rescinds, amends, supersedes, or supplements; and
- (4) Be in the physical form specified by the Attorney General.

"§ 150-52.2. *Authority of Attorney General to revise form.*—The Attorney General shall have the authority, following acceptance of a rule for filing, to revise the form of the rule as follows:

- (1) To rearrange the order of rules, chapters, subchapters, articles, sections, paragraphs, and other divisions or subdivisions;
- (2) To provide or revise titles or catchlines;
- (3) To reletter or renumber the rules and various subdivisions in accordance with a uniform system;
- (4) To rearrange definitions and lists; and
- (5) To make other changes in arrangement or in form that in the opinion of the Attorney General do not alter the substance of the rule and that the Attorney General determines are necessary or desirable for an accurate, clear, and orderly arrangement of rules.

Revision of form by the Attorney General shall not alter the effective date of a rule, nor shall revision require the agency to readopt or to refile the rule.

The rule so revised as to form shall be substituted for and shall bear the date of the rule originally filed, and shall be the official rule of the agency.

"§ 150-53. *Public inspection and notification of current and replaced rules.*—(a) Immediately upon notation of a filing as specified in G.S. 150-52(b), the Attorney General shall make the rule available for public inspection during regular office hours. Superseded, amended, revised, and rescinded rules filed in accordance with the provisions of this Article shall remain available for public

inspection. The current and the prior rules so filed shall be separately arranged in compliance with the provisions of G.S. 150-52.2.

(b) The Attorney General shall make copies of current and prior rules, filed in accordance with the provisions of this Article, available to the public at a cost to be determined by him.

(c) Within 25 days of the acceptance by the Attorney General of a rule for filing, the agency filing the rule:

- (1) Shall publish the rule as prescribed in any applicable statute; and
- (2) May distribute the rule in a manner selected by the agency as best calculated to give notice to persons likely to be affected by the rule.

The rule so published or distributed shall contain the legend: 'The form of this rule may be revised by the Attorney General pursuant to the provisions of G.S. 150-52.2.'

(d) The Attorney General is authorized to prepare and distribute summaries of rules filed pursuant to this Article in a manner selected by him as best calculated to give notice to the public.

"§ 150-54. *Publication of rules.*—(a) The Attorney General shall compile, index, and publish all rules filed and effective pursuant to the provisions of this Article.

(b) As nearly as practicable the compilation shall, in classification, arrangement, numbering, and indexing, conform to the organization of the General Statutes.

(c) If the Attorney General determines that publication of any rule would be impracticable, he shall substitute a summary with specific reference to the official rule on file in his office.

(d) As soon as practicable after July 1, 1975, the Attorney General shall publish a compilation of all rules in force pursuant to the provisions of this Article. Cumulative supplements shall be published annually, or more frequently in the discretion of the Attorney General. Recompilations shall be made in the discretion of the Attorney General.

"§ 150-54.1. *Judicial and official notice.*—The courts and administrative agencies shall take judicial or official notice, respectively, of any rule effective under this Article."

**Sec. 2.** G.S. 143-317, G.S. 143-318, and Articles 18 and 33 of Chapter 143 of the General Statutes, are hereby repealed.

**Sec. 3.** All references in the General Statutes to a section of Chapter 150 of the General Statutes not contained in this act and all references in the General Statutes to Article 18 of Chapter 143 or any of the sections contained therein (143-195 - 143-198.1) or to Article 33 of Chapter 143 or any of the sections contained therein (143-306 - 143-316) are hereby amended to read "Chapter 150 of the General Statutes".

**Sec. 4.** This act shall be effective on and after July 1, 1975, but shall not affect any pending administrative hearings.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1138

**CHAPTER 1332**

AN ACT TO PROVIDE THAT COPIES OF MEDICAL RECORDS SHALL BE RECEIVED IN EVIDENCE AS REGULAR BUSINESS RECORDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby added to the General Statutes a section to be designated G.S. 8-44.1 to read as follows:

“§ 8-44.1. *Copies of medical records.*—Copies of hospital records in connection with the treatment of any patient or the charges therefor shall be received as evidence, if otherwise admissible, in any court or quasi-judicial proceeding if testified to be authentic by a person in the hospital whose duty it is to have charge or custody of such records.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1215

**CHAPTER 1333**

AN ACT TO PROMOTE SAFETY IN THE USE OF FIREARMS IN CERTAIN COUNTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** It shall be unlawful for any person to discharge any center fire rifle upon the land of another or from the right-of-way of any public road or highway onto or across the land of another without first having secured the express written permission of the owner or lessee of the land upon, onto or across which such rifle is to be discharged.

**Sec. 2.** The written permission required by Section 1 shall be effective for only 12 months following the granting thereof, is not transferable, shall be carried on the person of the permittee while in possession of a center fire rifle on the land owned or leased by the person from whom such permission was obtained, and shall be exhibited to any law enforcement officer on request.

**Sec. 3.** All law enforcement officers including wildlife protectors are hereby authorized, and it shall be their duty, to aid in the enforcement of this law.

**Sec. 4.** Violation of this act shall constitute a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days.

**Sec. 5.** This act shall apply only to the counties of Bertie, Durham, Hertford, Gates and Pasquotank.

**Sec. 6.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1533

**CHAPTER 1334**

AN ACT RELATING TO THE PROCEDURE TO BE FOLLOWED IN THE GIVING OF ALL EXAMINATIONS FOR OCCUPATIONAL LICENSING BOARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 93B of the General Statutes is hereby amended by adding a new section immediately after G.S. 93B-5, to be numbered G.S. 93B-6 and to read as follows:

“§ 93B-6. *Examination procedures.*—(a) Each applicant for an examination given by any occupational licensing board shall be informed in writing or print of the required grade for passing the examination prior to the taking of such examination.

(b) Each applicant for an examination given by any occupational licensing board shall be identified, for purposes of the examination, only by number rather than by name.

(c) Each applicant who takes an examination given by any occupational licensing board, and does not pass such examination, shall have the privilege to review his examination in the presence of the board or a representative of the board.

(d) Notwithstanding the provisions of this section, under no circumstances shall an occupational licensing board be required to disclose to an applicant questions or answers to tests provided by recognized testing organizations pursuant to contracts which prohibit such disclosures.”

**Sec. 2.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1571

**CHAPTER 1335**

AN ACT AMENDING G.S. 7A-307 RELATING TO THE COST OF COURT IN THE ADMINISTRATION OF AN ESTATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-307(a) (2) is amended by striking the words and figures “one thousand dollars (\$1,000)” and inserting the words and figures “two thousand dollars (\$2,000)”.

**Sec. 2.** The provisions of this act shall not affect court costs in any estate the administration of which was begun prior to the ratification of this act.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1739

**CHAPTER 1336**

AN ACT TO AMEND ARTICLE 15 OF CHAPTER 58 OF THE NORTH CAROLINA GENERAL STATUTES TO PROHIBIT KICKBACKS AND REBATES IN THE SALE OF TITLE INSURANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 15 of Chapter 58 of the North Carolina General Statutes is hereby amended by adding thereto a new section to be entitled G.S. 58-135.1, to be inserted between G.S. 58-135 and G.S. 58-136, as the same presently appear in Replacement Volume 2B of the General Statutes, to read as follows:

“§ 58-135.1. *Prohibition against payment or receipt of title insurance kickbacks, rebates, commissions and other payments.*—(a) No person or entity selling real property, or performing services as a real estate agent, attorney or lender, which services are incident to or a part of any real estate settlement or sale, shall pay or receive, directly or indirectly, any kickback, rebate, commission or other payment in connection with the issuance of title insurance for any real property which is a part of such sale or settlement; nor shall any title insurance company, agency or agent make any such payment.

(b) Any person or entity violating the provisions of this Chapter shall be guilty of a misdemeanor and subject to a fine of not more than one thousand dollars (\$1,000), or imprisonment for not more than six months, or both, in the discretion of the court.

(c) No persons or entity shall be in violation of this section solely by reason of ownership of stock in a bona fide title insurance company, agency, or agent. For purposes of this section, and in addition to any other statutory or regulatory requirements, a bona fide title insurance company, agency or agent is defined to be a company, agency or agent that passes upon and makes title insurance underwriting decisions on title risks, including the issuance of title insurance policies, binders and endorsements, and that maintains a separate and distinct staff and office or offices for such purposes.”

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2115

**CHAPTER 1337**

AN ACT TO ESTABLISH A CHARTER FOR THE TOWN OF MAGGIE VALLEY.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Charter of the Town of Maggie Valley is hereby established to read as follows:

“CHARTER

Of The

TOWN OF MAGGIE VALLEY

CHAPTER I

Incorporation and Corporate Powers

**Sec. 1 -1.** Incorporation and Corporate Powers: The inhabitants of the Town of Maggie Valley are a body corporate and politic under the name of the

'Town of Maggie Valley'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina; provided, the Town shall have no authority to exercise beyond its corporate limits any of the powers granted by Article 19 of Chapter 160A of the General Statutes, nor any authority to exercise the powers granted by Part 2 of Article 4A of Chapter 160A of the General Statutes; provided further, that all the provisions of Part 1 of Article 4A of Chapter 160A of the General Statutes shall apply to the Town, but as to any area petitioned for annexation pursuant to G.S. 160A-31, the Town shall annex such area, but shall not be required to provide municipal services to such area until such time as the Town is financially able to do so.

CHAPTER II

Corporate Boundaries

Article 1. Town Boundaries

**Sec. 2 -1.** Town Boundaries. The boundaries of the Town of Maggie Valley are set out on a map entitled 'Maggie Valley, Ivy Hill Township, Haywood County, N. C.,' which map was surveyed by Edwards Engineering in March, 1974, and which shall be filed and maintained in the office of the town clerk, as required by G.S. 160A-23 immediately after incorporation and which shall be filed in the office of the Register of Deeds of Haywood County.

CHAPTER III

Governing Body

**Sec. 3 -1.** Structure of governing body; number of members. The governing body of the Town of Maggie Valley is the Board of Aldermen, which has five members and the Mayor.

**Sec. 3 -2.** Manner of election of Board. The qualified voters of the entire Town nominate and elect the members of the Board.

**Sec. 3 -3.** Term of Office of members of the Board. Members of the Board are elected to two-year terms.

**Sec. 3 -4.** Election of Mayor; term of office. The qualified voters of the entire Town elect the Mayor. He is elected to a two-year term of office.

CHAPTER IV

Elections

**Sec. 4 -1.** Conduct of town elections. Town officers shall be elected on a non-partisan basis and the results determined by plurality, as provided by G.S. 163-292.

CHAPTER V

Administration

**Sec. 5 -1.** Town to operate under mayor-council plan. The Town of Maggie Valley operates under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3.

CHAPTER VI

Initial Election

**Sec. 6 -1.** Initial members of the Governing Body shall be elected at the general election on November 5, 1974, pursuant to the general election laws of North Carolina contained in Chapter 163 of the General Statutes of North Carolina. Regular elections for the Governing Body shall be held thereafter as provided in the general election laws of North Carolina contained in Chapter 163 of the General Statutes of North Carolina. The Haywood County Board of

Elections shall conduct this election as well as all other town elections. Members of the Governing Body shall be sworn in as soon as practical after certification of election results.”

**Sec. 2.** Repeal of Town Charter. The governing body of the Town, by resolution duly adopted, is authorized to call a special election in Town to determine whether the Charter of the Town shall be repealed. The election shall be held and conducted by the County Board of Elections in accordance with applicable general laws regulating elections in the Town. At least 20 days public notice of the special election shall be given prior to the closing of the registration books.

The question submitted on the ballot shall be For repeal of the Town Charter, and Against repeal of the Town Charter.

If a majority of those voting favor repeal of the Town Charter, then upon the certification of the results of the special election, the Charter shall be repealed and the Town of Maggie Valley shall be dissolved as a municipal corporation.

No election for the repeal of the Town Charter shall be held under this act if there are outstanding bonds or other obligations of the Town and there are not sufficient funds on hand to pay off the bonds and other debts and obligations of the Town.

Upon repeal of the Town Charter, the Local Government Commission shall take charge of the fiscal affairs, all property and funds belonging to the Town and pay all debts and obligations of the Town. The Local Government Commission is authorized to sell all real and personal property of the Town at public auction or by private negotiation and sale as it deems best, and to execute all papers and instruments necessary to closing out the fiscal affairs of the Town. Any funds remaining on hand after all debts and obligations of the Town have been satisfied shall be paid into the General Fund of the County after the Local Government Commission has deducted the necessary cost for handling the fiscal affairs of the Town.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1304

**CHAPTER 1338**

AN ACT TO REPEAL THE FIVE THOUSAND DOLLAR (\$5000) LIMITATION ON MEDICAL EXPENSE DEDUCTIONS FOR INCOME TAX PURPOSES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-147(11) is hereby amended by rewriting the same to read as follows:

“(11) a. Amounts expended by an individual during the year for medical care for himself, herself, his or her qualifying spouse and his or her dependents, to the extent that the total of such expenses actually paid in the income year and not compensated for by insurance or otherwise shall exceed five percent (5%) of his or her adjusted gross income.

b. For the purpose of this subdivision:

1. The term ‘medical care’ means amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of

affecting any structure or function of the body; for transportation primarily for and essential to medical care; and for insurance against illness or accident other than insurance against loss of earnings.

2. The term 'qualifying spouse' means a spouse who has not claimed a two thousand dollar (\$2000) personal exemption.
3. The term 'dependents' means those individuals qualifying as dependents under the provisions of subdivision (5) of subsection (a) of G.S. 105-149, or those individuals for whom a dependency exemption is allowed under that subdivision."

**Sec. 2.** This act shall be effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1349                      CHAPTER 1339

AN ACT TO PROVIDE FOR A UNIFORM STATEWIDE SYSTEM OF JUVENILE PROBATION AND AFTERCARE IN THE ADMINISTRATIVE OFFICE OF THE COURTS AND TO AUTHORIZE AN INTAKE PROCESS FOR NONJUDICIAL DISPOSITION OF COMPLAINTS IN JUVENILE MATTERS WHERE APPROPRIATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 7A is hereby amended by adding Article 24 to read as follows:

"Article 24.

"Juvenile Services.

"§ 7A-289.1. *Purpose.*—The purpose of this Article is to provide for a statewide and uniform system of juvenile probation and aftercare which provides adequate and appropriate services to certain children who are found to be within the juvenile jurisdiction of the district court and to authorize an intake process for diversion of selected juvenile offenders from the juvenile justice system.

"§ 7A-289.2. *Definitions.*—The terms or phrases used in this Article shall be defined according to the definitions contained in G.S. 7A-278 and as follows, unless the context or subject matter otherwise requires:

(1) 'Probation' means the legal status of a child who is delinquent or undisciplined and is placed on probation as authorized by G.S. 7A-286(4) under conditions of probation related to the needs of the child as authorized by G.S. 110-22.

(2) 'Aftercare' means the legal status of a child who has been committed by the court to the Office of Youth Development, Department of Social Rehabilitation and Control for placement by said agency in one or more of its institutions or programs and who is being granted conditional release to return to the community as authorized by G.S. 134-17.

(3) 'Chief Court Counselor' is the professional person responsible for administration and supervision of juvenile probation and aftercare in each judicial district under the supervision of the court and the Administrator for Juvenile Services.

(4) 'Court Counselor' is a professional person responsible for juvenile probation and aftercare services to children on probation or on conditional

release from the Office of Youth Development, Department of Social Rehabilitation and Control under the supervision of the chief court counselor.

(5) 'Administrator' is the Administrator for Juvenile Services in the Administrative Office of the Courts who is responsible for planning, organizing and administering a statewide system of juvenile probation and aftercare services as authorized by this Article.

(6) 'Division' is the Division of Juvenile Services to administer juvenile probation and aftercare services to juveniles as authorized by this Article.

(7) 'Director' is the Director of the Administrative Office of the Courts.

"§ 7A-289.3. *Division of Juvenile Services.*—A Division of Juvenile Services is hereby created within the Administrative Office of the Courts to be responsible for administration of a statewide and uniform system of juvenile probation and aftercare services in all judicial districts of the State. The administrative head of the Division shall be the Administrator for Juvenile Services who shall be appointed by the Director. The Administrator shall be responsible for planning, organizing and administering juvenile probation and aftercare services on a statewide basis to the end that juvenile services will be uniform throughout the State and of sufficient quality to meet the needs of the children under supervision.

"§ 7A-289.4. *Duties and Powers of Administrator.*—The Administrator shall have the following powers and duties under the supervision of the Director:

(1) To plan for a statewide program of juvenile probation and aftercare services;

(2) To appoint such personnel within the Administrative Office of the Courts as may be necessary to administer a statewide and uniform system of juvenile probation and aftercare;

(3) To appoint the chief court counselor in each judicial district with the approval of the chief district judge and the Director;

(4) To study the various issues related to qualifications, salary ranges, appointment of personnel on a merit basis (including chief court counselors, court counselors, secretaries and other appropriate personnel) at the State and district levels in order to recommend appropriate policies and procedures governing personnel to the Director who may adopt such personnel policies as he finds to be in the best interest of the juvenile services program;

(5) To develop a statewide plan for staff development and training so that chief court counselors, court counselors and other personnel responsible for juvenile services may be appropriately trained and qualified; such plan may include attendance at appropriate professional meetings and opportunities for educational leave for academic study;

(6) To develop, promulgate and enforce such policies, procedures, rules and regulations as he may find necessary and appropriate to implement a statewide and uniform program of juvenile probation and aftercare services.

"§ 7A-289.5. *Duties and powers of chief court counselors.*—The chief court counselor in each judicial district who is appointed as provided by this Article shall have the following powers and duties:

(1) To appoint such court counselors, secretaries and other personnel as may be authorized by the Administrative Office of the Courts with the approval of the Administrator in accordance with the personnel policies adopted by the Director;

(2) To supervise and direct the program of juvenile probation and aftercare services within the district under the supervision of the court and the Administrator according to the statewide practices and procedures promulgated by the Administrator.

(3) To provide inservice training for staff as required by the Administrator.

(4) To keep such records and make such reports as may be requested by the Administrator in order to provide statewide data and information about juvenile needs and services.

“§ 7A-289.6. *Duties and powers of court counselors.*—The court counselors in each district shall have the duties and powers of juvenile probation officers as provided by G.S. 110-23 and as follows:

(1) To conduct a pre-hearing social study of any child alleged to be delinquent or undisciplined if so instructed by the court, provided that no social study shall be made prior to an adjudication that the child is within the juvenile jurisdiction of the court unless the child and his parent or attorney or guardian or custodian files a written statement with the court counselor declaring the child's intention to admit the allegations contained in the juvenile petition and giving consent to such pre-hearing social study; when such a pre-hearing social study has been completed, the court counselor shall prepare a written report for the court summarizing the findings which may be reviewed by the court prior to the juvenile hearing and which shall contain recommendations as to the type of care and/or treatment needed by the child and which shall be in the form developed by the Administrator for such reports.

(2) To assist the court in handling cases where a child alleged or adjudicated delinquent or undisciplined needs detention care prior to the juvenile hearing, or after a hearing to determine the need for detention, or pending admission of the child to an institution or other residential program as authorized by G.S. 7A-286(3).

(3) To bring any child on probation to the attention of the court for review and termination when the child's period of probation is ended as provided by G.S. 110-22; the counselor may also recommend termination of probation prior to the end of the child's period of probation when such a recommendation is merited by the progress and adjustment of the child.

(4) To assist the court as requested in matters related to children within the juvenile jurisdiction of the court as undisciplined, dependent or neglected or within the Interstate Compact on Juveniles. This provision shall not be construed, however, to deprive the Department of Social Services of the functions assigned to it by law in the area of dependent or neglected children.

“§ 7A-289.7. *Intake authorized.*—The chief court counselor in each judicial district may establish intake services within his office under the supervision of the Administrator. If intake services are established by the chief court counselor, such services shall be organized as follows:

(1) All complaints concerning any child alleged to be within the juvenile jurisdiction of the court as undisciplined or delinquent shall be received by personnel designated by the chief court counselor as responsible for intake services. The personnel so assigned shall conduct a preliminary inquiry to determine whether it is in the best interest of the child or the State that a juvenile petition be filed. Such preliminary inquiry may be carried on over a period of 15 days after receipt of the complaint, but the inquiry shall be completed within said 15 days. The personnel conducting such inquiry may hold

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conferences with the child, his family, the school and other appropriate community resources to adjust the case so that filing a petition will not be necessary.

(2) If the intake personnel determine that a petition should be filed, the complainant should be notified and assisted with the filing of a juvenile petition with the clerk of superior court.

(3) If it is determined that a petition should not be filed, the intake personnel shall notify the complainant of this decision and of the complainant's right to have such decision reviewed by a judge of the court. Such intake personnel may refer the case to an appropriate public or private agency with notice to the complainant after which the intake file may be closed, subject to judicial review."

**Sec. 2.** G.S. 110-21, G.S. 7A-134, G.S. 108-19(8) and G.S. 108-19(9) are hereby repealed.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1389

## CHAPTER 1340

AN ACT TO REQUIRE TAX COLLECTORS TO INCLUDE IN THEIR TAX CERTIFICATES THE AMOUNT OF ANY LIEN THAT MIGHT BECOME DUE BY VIRTUE OF A DISQUALIFICATION FOR SPECIAL CLASSIFICATION AT PRESENT USE VALUATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 26 of Chapter 105 of the General Statutes is hereby amended by rewriting the first sentence of G.S. 105-361 to read as follows:

"§ 105-361. *Statement of amount of taxes due.*—(a) Duty to furnish a certificate. On the request of any of the persons prescribed in subdivision (a)(1), below, and upon the condition prescribed by subdivision (a)(2), below, the tax collector shall furnish a written certificate stating the amount of any taxes and special assessments for the current year and for prior years in his hands for collection (together with any penalties, interest, and costs accrued thereon) including the amount due under G.S. 105-277.4(c) if the property should lose its eligibility for the benefit of classification under G.S. 105-277.2 et seq. that are a lien on a parcel of real property in the taxing unit."

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1437

CHAPTER 1341

AN ACT TO AMEND CHAPTER 715 OF THE 1973 SESSION LAWS RELATING TO THE LISTING OF ALL STATE JOB OPENINGS WITH THE EMPLOYMENT SECURITY COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 715 of the 1973 Session Laws of North Carolina is amended by deleting the following words from the first line of Section 1: "It is the duty of"; by changing the first letter "e" in the word "every" in the first line of Section 1 to "E", and by deleting the word "to" in the first line of Section 1 and inserting in lieu thereof the word "shall". On line 2 of Chapter 715, Session Laws 1973, after the word "agency" add the following words: "which the agency wishes filled"; and on line 4 after the word "and" delete the word "to".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1536

CHAPTER 1342

AN ACT RELATING TO THE STATUS OF BOARD MEMBERS OF OCCUPATIONAL LICENSING BOARDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93B-5, as the same appears in Volume 2C of the General Statutes, is hereby rewritten to read as follows:

"§ 93B-5. *Compensation and employment of Board members.*—(a) Board members shall receive as compensation for their services per diem not to exceed thirty-five dollars (\$35.00) for each day during which they are engaged in the official business of the Board.

(b) Board members shall be reimbursed for all necessary travel expenses and registration fees in an amount not to exceed that authorized under G.S. 138-6(a)(1), (2), and (4) for officers and employees of State departments.

(c) One member of the Board may receive reasonable compensation for any purpose which the Board shall deem appropriate, at a sum fixed by the Board. In addition thereto, said Board member shall be entitled to the same compensation provided in subsections (a) and (b).

(d) Except as provided in subsection (c) above, Board members shall not be paid a salary or receive any additional compensation for services rendered as members of the Board.

(e) Board members shall not be permanent, salaried employees of said Board."

**Sec. 2.** Members of the State Board of Barber Examiners are hereby authorized to continue the performance of their assigned duties until the expiration of the term of their current appointment. Any member hereafter appointed to the Board for a full term or an unexpired term shall be subject to the provisions of this act.

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1688

CHAPTER 1343

AN ACT TO CREATE A NEW LICENSE CLASSIFICATION FOR ELECTRICAL CONTRACTORS WHO WORK ON SINGLE RESIDENTIAL DWELLINGS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 87 of the General Statutes is hereby amended by adding a new section G.S. 87-43.4 thereto.

“§ 87-43.4. *Residential dwelling license.*—There is hereby created a separate license for electrical contractors which shall permit an electrical contractor to engage in electrical contracting projects pertaining to single family detached residential dwellings. The Board shall establish appropriate standards for this new license. The standards of knowledge, experience and proficiency shall be those appropriate for that license.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1418

CHAPTER 1344

AN ACT TO MAKE CERTAIN AMENDMENTS TO CHAPTER 163 OF THE GENERAL STATUTES RELATING TO ELECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-106(a) is amended by rewriting the third sentence of the first paragraph to read as follows:

“Each candidate shall sign his notice of candidacy at the office of the appropriate board of elections in the presence of any member or the executive secretary of the board of elections, State, county, or municipal, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail or deliver his notice of candidacy to the appropriate board of elections. A notice of candidacy shall be deemed to have been filed with the appropriate board of elections when it is received by that board.”

**Sec. 2.** G.S. 163-150(f) is amended by rewriting the first two sentences to read:

“At each primary, general or special election, the precinct registrar shall appoint two precinct assistants (one from each political party as recommended by the county chairman thereof), one to be assigned to keep the pollbook or other voting record used in the county as approved by the State Board of Elections, and the other to keep the registration books under the supervision of the precinct officials. The names of all persons voting shall be checked on the registration records and entered on the pollbook or other voting record.”

**Sec. 3.** G.S. 163-150(f), as enacted by Section 61, Chapter 793, 1973 Session Laws is amended by deleting the word “judge” in the fourth sentence thereof and adding in its place the words “precinct assistant”; and by deleting the words in the fifth sentence thereof “and the names of absentee voters have been entered as required by G.S. 163-234.”

**Sec. 4.** G.S. 163-30 is hereby amended by deleting from the last paragraph the words and figures "fifteen dollars (\$15.00)" and inserting in lieu thereof the words and figures "twenty-five (\$25.00)".

**Sec. 5.** G.S. 163-32 is amended by inserting after the word "chairman" in the last sentence of the first paragraph, the words "and members".

**Sec. 6.** All payments made in good faith by any county boards of elections or boards of county commissioners to any member of the board of elections that may have exceeded the authorized statutory rate are hereby authorized and the action of the county boards of elections or boards of county commissioners in making those payments are hereby ratified.

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1686                      CHAPTER 1345

AN ACT REQUIRING APPOINTMENT OF TWO NORTH CAROLINA PHYSICIANS SPECIALIZING IN THE FIELD OF OTOLARYNGOLOGY TO THE BOARD; REQUIRING BILL OF SALE TO PURCHASER OF HEARING AID, AND REMOVING RESTRICTIONS ON NUMBER OF TIMES AN APPRENTICE MAY RENEW LICENSE AND TAKE EXAMINATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93D-3(a) is hereby amended by rewriting the second paragraph thereof to read as follows:

"Two members shall be appointed by the Governor who shall be physicians practicing in North Carolina, preferably specializing in the field of otolaryngology. All appointments shall be for terms of four years."

**Sec. 2.** G.S. 93D-3(c) is hereby amended by inserting the following after (9):

"(10) Inform the Attorney General of any information or knowledge it acquires regarding any "price-fixing" activity whatsoever in connection with the sales and service of hearing aids.

(11) Establish and enforce regulations which will guarantee that a full refund will be made by the seller of a hearing aid to the purchaser when presented with a written medical opinion of an otolaryngologist that the purchaser's hearing cannot be improved by the use of a hearing aid."

**Sec. 3.** G.S. 93D-7 shall be rewritten to read as follows:

"Persons engaged in the fitting and selling of hearing aids. Every person fitting and selling a hearing aid, be it new or used, in the State of North Carolina, at the time of delivery of the hearing aid shall render to the user and/or purchaser a statement of sale to include the following:

- (a) Date of delivery
- (b) Condition of hearing aid; New, Used, Reconditioned
- (c) Hearing aid identification number
- (d) Name of manufacturer
- (e) Price of hearing aid
- (f) Charge for fitting and service
- (g) Name of dealer and/or fitter
- (h) Signature of customer"

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**Sec. 4.** G.S. 93D-9(e) is hereby amended by deleting the second sentence thereof from lines 5 and 6, which reads, "In no event shall more than one renewal of apprenticeship license or two examinations for license be permitted."

**Sec. 5.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1697

**CHAPTER 1346**

AN ACT TO AMEND CHAPTER 136 TO AUTHORIZE CIVIC, NONPROFIT OR CHARITABLE ORGANIZATIONS TO SERVE REFRESHMENTS TO MOTORISTS AT REST AREAS AND WELCOME CENTERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 136 of the General Statutes of North Carolina is hereby amended by adding a new section to be designated G.S. 136-89.59 to read as follows:

"§ 136-89.59. *Highway rest area refreshments.*—All civic, nonprofit, or charitable corporations and organizations are authorized to serve nonalcoholic refreshments to motorists at rest areas and welcome centers located on control access facilities in accordance with the following conditions:

(1) 30-day permits shall be issued without cost by the Highway Division Engineer. Permits shall be subject to revocation by the State Highway Administrator for violations of this act.

(2) The activity must be carried on solely within the safety rest area free from any ramp or other service used for the movement of vehicles.

(3) The activity must be conducted for the express purpose of improving the safety of highway travel and the advertisement of any product by any organization shall not be permitted.

(4) The refreshment and any other service offered must be free of charge to the motorist and solicitation of contributions, donations, etc., shall not be permitted.

(5) Signs shall be displayed by the corporation or organization, and the Board of Transportation is hereby authorized to promulgate rules and regulations governing the size, content and location of such signs."

**Sec. 2.** Article 6E of Chapter 136 of the General Statutes of North Carolina has heretofore been repealed and the same is hereby deleted from codification.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 639

**CHAPTER 1347**

AN ACT PROHIBITING DISORDERLY CONDUCT BY ANY PERSON OR GROUP OF PERSONS AT ANY PUBLIC OR PRIVATE EDUCATIONAL INSTITUTION, OR ON THE GROUNDS ADJACENT THERETO.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-288.4(a) is amended by adding a new subdivision at the end thereof:

“Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 714

**CHAPTER 1348**

AN ACT TO AMEND THE DATE FOR VALIDATING A DEFAULT JUDGMENT TO REMOVE CLOUD FROM TITLE TO REAL ESTATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1-217.2 is hereby amended by deleting the words “1st day of April, 1967,” from the first line thereof, and substituting in lieu thereof the words “10th day of October, 1969,”.

**Sec. 2.** This act shall not affect pending litigation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1393

**CHAPTER 1349**

AN ACT TO END FRANCHISE TAXES ON PUBLIC IN-SERVICE COMPANY, SPECIFICALLY AMENDED, G.S. 105-116.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-116 is amended in subsection (b) therein by inserting between the words “electric membership” and the word “corporation” in the two sentences in which those words appear together the additional words “or non-profit”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**S. B. 1466                      CHAPTER 1350**

AN ACT TO EXEMPT THE NORTH CAROLINA STATE PORTS AUTHORITY FROM THE PROVISIONS OF ARTICLE 3 OF CHAPTER 143 OF THE GENERAL STATUTES IN SELLING ITS RAILROAD EQUIPMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** The North Carolina State Ports Authority, for the purpose of disposing of its railroad equipment only, is hereby exempted from the provisions of Article 3 of Chapter 143 of the General Statutes dealing with the disposal of surplus property and any rules and regulations which may have been adopted by the Department of Administration in regard to the disposal of such property.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1945                      CHAPTER 1351**

AN ACT AUTHORIZING COUNTY AND CITY BOARDS OF EDUCATION TO EXPEND PUBLIC FUNDS TO TRANSPORT AUTISTIC AND COMMUNICATIONS HANDICAPPED CHILDREN.

Whereas, the State Program for the Treatment and Education of Autistic and related Communications Handicapped Children (TEACCH) has been developed from the Child Research Project, and supported entirely by the National Institute of Mental Health and the Department of Psychiatry of the School of Medicine of the University of North Carolina at Chapel Hill; and

Whereas, TEACCH continues to be administered as a division of the Department of Psychiatry of the School of Medicine of the University of North Carolina at Chapel Hill and has been enormously successful in providing a more meaningful life for Autistic and Communications Handicapped Children; and

Whereas, some, but not all, of the public school administrative units provide educational facilities for Autistic and Communications Handicapped Children making it necessary for some children living in a county that has no such facilities to travel at their own expense to another county so that they may receive proper educational training; and

Whereas, the parents of these children should not have to pay out of their own pockets these transportation costs; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** The State Board of Education is authorized to expend public funds to defray the reasonable cost of motor vehicle transportation for Autistic and Communications Handicapped Children and deaf and blind children to the nearest proper public educational institution located within the State.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## S. B. 903 CHAPTER 1352

## AN ACT RELATING TO INTERSTATE PAROLE AND PROBATION HEARING PROCEDURES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 148 of the General Statutes is hereby amended by adding a new section as follows:

“§ 148-65.3. *Interstate parole and probation hearing procedures.*—(a) Where supervision of a parolee or probationer is being administered pursuant to the Interstate Compact for the Supervision of Parolees and Probationers, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this section within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this State shall as soon as practicable, following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the parolee or probationer involved for a period not to exceed 15 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(b) Any hearing pursuant to this section may be before the Administrator of the Interstate Compact for the Supervision of Parolees and Probationers, a deputy of such Administrator, or any other person appointed by the Administrator, or any person authorized pursuant to the laws of this State to hear cases of alleged parole or probation violation, except that no hearing officer shall be the person making the allegation of violation.

(c) With respect to any hearing pursuant to this section, the parolee or probationer:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation.
- (2) Shall be permitted to advise with any persons whose assistance he reasonably desires, prior to the hearing.
- (3) Shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.
- (4) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

(d) In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for the Supervision of Parolees and Probationers, any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing

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on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to this section, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## S. B. 904 CHAPTER 1353

### AN ACT TO AMEND G.S. 15-205.1 OF THE GENERAL STATUTES RELATING TO MANDATORY REVIEW OF PROBATION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 15-205.1, as the same appears in the 1969 Cumulative Supplement of Volume 1C of the General Statutes is hereby amended and rewritten to read as follows:

“§ 15-205.1. *Mandatory review of probation.*—It shall be the duty of the probation officer in all cases referred to him to bring the probationer before the appropriate court having jurisdiction for review by the judge to determine whether the probationer should be released from probation after the probationer has actually been on probation for three years if the period of probation was for more than three years. The court shall review the probationer’s case file and determine whether he should be released from probation. This section shall not restrict the court’s power to continue, extend, suspend or terminate the period of probation at any time as provided in G.S. 15-200.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## S. B. 971 CHAPTER 1354

### AN ACT TO AMEND THE ADOPTION LAW TO PROVIDE FOR ADOPTION OF A CHILD BY A NATURAL PARENT WITHOUT THE JOINDER OF THE SECOND SPOUSE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 48-4(b) is amended by adding a new sentence following the period on line 3:

“Provided further that if the petitioner is the natural parent of the child to be adopted and the other natural parent of the child is living, the spouse of the petitioner may choose not to join in the petition, but shall indicate agreement to the proposed adoption by affidavit which shall be incorporated into the adoption proceeding.”

**Sec. 2.** G.S. 48-4(c) is amended by inserting in line 4 after “subsection (b)” and before “or” the words “or for the adoption of a natural child as provided in subsection (b)”.

**Sec. 3.** G.S. 48-4(c) is further amended by inserting in line 8 after “petitioners” and before “and” the words “and in cases where the petitioner is the natural parent of the child as provided in subsection (b)”.

**Sec. 4.** G.S. 48-4(e) is amended by inserting in line 1 after “is” and before “the” the words “the natural parent or”.

**Sec. 5.** G.S. 48-7 is amended by adding a new subsection thereto:  
“(e) When the spouse of the natural parent chooses not to join in the petition and has signed an affidavit as provided in G.S. 48-4(b), the consent of the other natural parent to the adoption shall not affect the relationship of parent and child between such parent and the child.”

**Sec. 6.** G.S. 48-21(c) is amended by inserting in line 7 after “is” and before “the” the words “the natural child or”.

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1743                      CHAPTER 1355**

**AN ACT TO AMEND G.S. 122-35.20 RELATING TO POPULATION REQUIREMENTS IN THE ESTABLISHMENT OF AREA MENTAL HEALTH PROGRAMS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-35.20, Subsection B, is hereby amended by deleting the figure 325,000 in line 1 and inserting 275,000 and in line 5 in the same section, deleting the figure 325,000 and inserting the figure 275,000.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1792                      CHAPTER 1356**

**AN ACT TO PROVIDE THAT 18 YEAR OLDS BE ELIGIBLE FOR OCCUPATIONAL LICENSES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 93B of the General Statutes is hereby amended by adding a new section, G.S. 93B-7, thereto to read as follows:

“§ 93B-7. *Age requirements.*—Any other provision notwithstanding, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1849 CHAPTER 1357

AN ACT ESTABLISHING DEATH BENEFITS UNDER THE WORKMEN'S COMPENSATION ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 97-38, as the same appears in the 1973 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended on line 8 of the first unnumbered paragraph by deleting the number "350" and inserting in lieu thereof the number "400".

**Sec. 2.** G.S. 97-38, as the same appears in the 1973 Cumulative Supplement to Volume 2D of the General Statutes, is hereby amended on line 3 of the second unnumbered paragraph by deleting the number "350" and inserting in lieu thereof the number "400".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1851 CHAPTER 1358

AN ACT TO AMEND CHAPTER 90 OF THE GENERAL STATUTES RELATING TO CONTROLLED SUBSTANCES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-87, as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes is hereby amended by renumbering subdivisions (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), and (27), as subdivisions (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27) and (28) respectively, and by adding a new subdivision (15) to read as follows:

"(15) The term 'Isomer' means, except as used in G.S. 90-89(c), the optical isomer. As used in G.S. 90-89(c) the term 'isomer' means the optical, position, or geometric isomer."

**Sec. 2.** G.S. 90-88(d), as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by deleting the numbers "180" from line 4 therein and by substituting the numbers "30" therein, and by changing "within the 180-day period" on line 5 to the words "within 180 days".

**Sec. 3.** G.S. 90-88, as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby further amended by adding two new subsections to be designated "(h)" and "(i)", to read as follows:

"(h) When any substance is designated, rescheduled or deleted as a controlled substance pursuant to this section, the North Carolina Drug Authority shall mail a notice of this change to each registrant, to the State Bureau of Investigation, North Carolina Board of Pharmacy and to each District Attorney within 30 days of this change.

(i) The North Carolina Drug Authority shall maintain a list of all preparations, compounds, or mixtures which are excluded, exempted and excepted from control under any schedule of this act by the United States Drug Enforcement Administration and/or the North Carolina Drug Authority. This list and any changes to this list shall be mailed to the North Carolina Board of

Pharmacy, the State Bureau of Investigation and each District Attorney of this State.”

**Sec. 4.** G.S. 90-89(b), as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by adding a new subdivision to be numbered (23) and to read as follows:

“(23) Drotebanol.”

**Sec. 5.** G.S. 90-89(c), as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by changing the list of hallucinogenic substances to read as follows:

“(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3,4-methylenedioxy amphetamine.
2. 5-methoxy-3, 4-methylenedioxy amphetamine.
3. 3,4,5-trimethoxy amphetamine.
4. Bufotenine.
5. Diethyltryptamine.
6. Dimethyltryptamine.
7. 4-methyl-2, 5-dimethoxyamphetamine.
8. Ibogaine.
9. Lysergic acid diethylamide.
10. Mescaline.
11. Peyote.
12. N-ethyl-3-piperidyl benzilate.
13. N-methyl-3-piperidyl benzilate.
14. Psilocybin.
15. Psilocyn.
16. 2,5-dimethoxyamphetamine
17. 4-bromo-2, 5-dimethoxyamphetamine
18. 4-methoxyamphetamine

**Sec. 6.** (a)—G.S. 90-90 as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes is hereby amended by rewriting subsection (a) to read as follows:

“(a) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, unless specifically excepted or unless listed in another schedule:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salts, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the

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substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine

(b) G.S. 90-90 is hereby further amended by adding a new subsection (d) to read as follows:

“(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically exempted by the Drug Authority or listed in another schedule:

1. Methaqualone
2. Amobarbital
3. Secobarbital
4. Pentobarbital”.

Sec. 7. G.S. 90-91, as the same appears in Volume 2C of the Cumulative Supplement of the General Statutes is hereby amended by adding a new subsection (j) to read as follows:

“(j) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of said isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, unless specifically excluded or listed in some other schedule.

- (1) Benzphetamine
- (2) Chlorphentermine
- (3) Chlortermine
- (4) Mazindol
- (5) Phendimetrazine.”

Sec. 8. G.S. 90-92, as the same appears in Volume 2C of the 1973 Cumulative Supplement of the General Statutes, is hereby amended by adding a new subsection (c) to read as follows:

“(c) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

1. Fenfluramine.”

Sec. 9. G.S. 90-93, as the same appears in Volume 2C of the 1973 Cumulative Supplement of the General Statutes, is hereby amended in subsection (b) by deleting the word “dispensed” and inserting the word “sold” and by deleting the word “dispense” and inserting the word “sell” and in subsection (c) by deleting the word “dispense” and inserting the word “sell”.

Sec. 10. G.S. 90-95(d)(2), as the same appears in Volume 2C of the 1973 Cumulative Supplement of the General Statutes, is hereby rewritten to read as follows:

“(2) A controlled substance classified in Schedule II, III, or IV, shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or fined not more than two thousand dollars (\$2,000), or both in the discretion of the court; but if the quantity of the controlled substance, or combination of the controlled substances, exceeds 100 tablets, capsules or other dosage units, or equivalent quantity, including one-half gram or more of phencyclidine or one gram or more of cocaine, the violation shall be a felony

punishable by a term of imprisonment of not more than five years or a fine of not more than five thousand dollars (\$5,000), or both, in the discretion of the court;”.

**Sec. 11.** G.S. 90-108(a) (1), as the same appears in Volume 2C of the 1973 Cumulative Supplement of the General Statutes, is hereby amended in the second line by adding the words “or practitioner” after the word “registrant”.

**Sec. 12.** G.S. 90-101(f), as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby rewritten to read as follows:

“(f) The North Carolina Drug Authority is authorized to inspect the establishment of a registrant, applicant for registration, or practitioner in accordance with the rules and regulations promulgated by it.”

**Sec. 13.** G.S. 90-107, as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by striking the period at the end of the first sentence, inserting a comma, and adding the following words:

“and to authorized employees of the North Carolina Drug Authority.”

**Sec. 14.** G.S. 90-102(c), as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by rewriting the first sentence to read as follows:

“(c) Individual practitioners licensed to dispense and authorized to conduct research under federal law with Schedules II through V substances must be registered with the North Carolina Drug Authority to conduct such research.”; and by changing the last sentence thereof to read as follows:

“Practitioners registered under federal law to conduct research with the substances of Schedules I and VI of this act may conduct research with Schedules I and VI substances within this State by registering with the North Carolina Drug Authority upon furnishing evidence of said federal registration.”

**Sec. 15.** Article 5 of Chapter 90 of the General Statutes is hereby amended by changing the words “North Carolina Commission for Health Services” and “Commission for Health Services” wherever they appear in Article 5, Chapter 90 of the General Statutes, “North Carolina Controlled Substances Act” sections 90-86 and 90-113.1, to the words “North Carolina Drug Authority” and “Drug Authority”.

**Sec. 16.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1366      CHAPTER 1359

### AN ACT TO AMEND G.S. 163-42 RELATING TO THE APPOINTMENT OF PRECINCT ASSISTANTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 163-42 is amended by adding a new last sentence to the first paragraph as follows:

“Each of the required two precinct assistants in each precinct shall be a registered voter of a different political party. Where there are more than two precinct assistants to be appointed in a precinct, no more than a majority of them shall be registered voters of the same political party, and if there is an odd number of precinct assistants to be appointed in that precinct. However, if these

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requirements cannot be met because there is an insufficient number of voters of the political parties available for appointment as precinct assistants, the county board of elections shall, nevertheless, secure as much bi-partisan representation among precinct assistants as circumstances in the precinct permit, taking into account the recommendations received by it from the party chairmen and the number of precinct assistants to be appointed.”

**Sec. 2.** G.S. 163-42 is further amended by rewriting the second paragraph to read as follows:

“The chairman of each political party in the county shall have the right to recommend from three to ten registered voters in each precinct for appointment as precinct assistants in that precinct. If the recommendations are received by it before the seventh Saturday before the primary is to be held, the board shall make appointments of the precinct assistants for each precinct from the names thus recommended.”

**Sec. 3.** G.S. 163-42 is further amended by rewriting the fourth paragraph to read as follows:

“In all precincts, whether using voting machines or paper ballots, the county board of elections may appoint one precinct assistant for each 300 voters registered in that precinct in addition to the two required precinct assistants.”

**Sec. 4.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 1645                      CHAPTER 1360

AN ACT TO AMEND CHAPTER 88 OF THE GENERAL STATUTES REGULATING MEETINGS AND EXAMINATIONS CONDUCTED BY THE BOARD OF COSMETIC ART AND REGULATING THE COMPENSATION PAID TO MEMBERS OF THIS BOARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 88-13 is hereby amended by deleting the word “three” in line two and substituting therefor the word “five”, and by deleting the last two sentences thereof and adding a new paragraph as follows:

“When the terms of office of Board members expire on June 30, 1974, the Governor shall appoint one member for a term of five years, two for a term of four years and two for a term of three years. Thereafter, as the term of any member expires, their successor shall be appointed for a term of three years and shall serve until their successor is appointed and qualified. The Governor, at his option, may remove any member for good cause shown and appoint members to fill unexpired terms.”

**Sec. 2.** G.S. 88-15 is hereby amended by rewriting the first paragraph as follows: “Each member of the Board of Cosmetic Art Examiners shall receive compensation for their services and expenses as provided in G.S. 93B-5.”

**Sec. 3.** G.S. 88-17 is hereby amended by removing the period from the end of the first sentence and placing a semicolon after the word “examinations” and adding the following:

“; provided, however, that examinations are conducted at no less than three locations other than Raleigh, scattered geographically throughout the State of North Carolina, and the locations for examinations conducted outside of

Raleigh shall be in publicly supported two-year post secondary educational institutions with appropriate facilities.”

**Sec. 4.** G.S. 88-17 is further amended by removing the period in the second sentence after the word “determine” and adding the following:

“and the examinations conducted for applicants for certificates of registration as registered cosmetologists and registered apprentices shall be administered by teachers or instructors qualified and approved by the Board of Cosmetic Art Examiners, provided that such examinations are made under the supervision of a member of the Board of Cosmetic Art Examiners.”

**Sec. 5.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1852                      CHAPTER 1361**

**AN ACT TO AMEND G.S. 90-109 TO REQUIRE LICENSING OF TELEPHONE CRISIS SERVICES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 90-109, as the same appears in Volume 2C of the 1973 Cumulative Supplement to the General Statutes, is hereby amended by rewriting the subsection (a) to read as follows:

“(a) Any person other than a practitioner, who holds himself out to the public, or any part of it, as being a drug treatment facility, or being able or available to treat, give shelter or comfort to, including telephone crisis services (hotlines), or who proposes to do any of the foregoing to or for any person using, under the influence of, or experiencing the effects of a controlled substance, included in Schedules I through VI of this Article shall first be licensed by the North Carolina Drug Authority as a drug treatment facility.”

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

**H. B. 1924                      CHAPTER 1362**

**AN ACT TO AMEND G.S. 20-17.1 PERTAINING TO REVOCATION OF DRIVER'S LICENSE OF MENTAL INCOMPETENTS, ALCOHOLICS AND HABITUAL USERS OF NARCOTIC DRUGS TO PROVIDE DUE PROCESS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-17.1(a) as same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the last full sentence thereof and inserting in lieu thereof the following:

“Provided that if such person requests, in writing, a hearing, he shall retain his license until after the hearing, and if the revocation is sustained after such hearing, the person whose driving privilege has been revoked under the provisions of this section, shall have the right to a review by the Review Board as provided in G.S. 20-9(g)(4) upon written request filed with the Department.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1877

**CHAPTER 1363**

AN ACT RELATING TO CERTAIN MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO WERE FORMERLY MEMBERS OF THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subdivision (1) of G.S. 135-3, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by striking out the period at the end of line 27, substituting a colon therefor, and adding the following:

“Provided, further, any State employee who was formerly a member of the Law Enforcement Officers' Benefit and Retirement Fund and transferred to nonlaw-enforcement State employment within the same department prior to May 26, 1961, and withdrew his contributions from the Law Enforcement Officers' Benefit and Retirement Fund at a time when the above transfer of contributions and credits was not authorized by statute, and who has been continuously a member of the Teachers' and State Employees' Retirement System since such transfer to nonlaw-enforcement State employment with the same department, may pay to the Teachers' and State Employees' Retirement System in a lump sum the amount of such withdrawn contributions plus interest and, thereupon, shall be entitled to the same membership and prior service credits as if such contributions had never been withdrawn.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1944

**CHAPTER 1364**

AN ACT TO PROVIDE THAT A PERSON SHALL HAVE A GRACE PERIOD BEFORE LOSING IN-STATE TUITION STATUS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-143.1 of the General Statutes as it appears in the 1973 Cumulative Supplement to Volume 3A of the Statutes is hereby amended by adding a new subsection at the end to be designated subsection “(d)” and to read as follows:

“(d) A person who, by virtue of bona fide legal residence in North Carolina for the requisite 12 months has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education in North Carolina, loses North Carolina legal residence, shall continue to enjoy the in-state tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period shall extend, in addition, to the end of that semester or academic term.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1947 CHAPTER 1365

AN ACT TO REVISE THE TERM OF OFFICE OF ONE TRUSTEE OF THE BOARD OF TRUSTEES OF LOCAL FIREMEN'S RELIEF FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 118-6(3), as the same appears in Volume 3B of the General Statutes is rewritten to read as follows:

“(3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner.”

**Sec. 2.** This act shall become effective on February 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1981 CHAPTER 1366

AN ACT TO PROVIDE LIENS FOR FRANCHISED AMBULANCE SERVICE SUPPLEMENTED BY COUNTY FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 44-51.4 is hereby amended by inserting a comma (“,”) after the word “county” in the first line thereof and adding the phrase “by a county franchised ambulance service supplemented by county funds,” before the word “or” therein.

**Sec. 2.** G.S. 44-51.5 is hereby amended by inserting a comma (“,”) after the word “county” in the third line thereof and adding the phrase “by a county franchised ambulance service supplemented by county funds,” before the word “or” therein.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2012 CHAPTER 1367

AN ACT TO AMEND G.S. 143B-143 BY PROVIDING THAT THE GOVERNOR SHALL APPOINT A REGISTERED NURSE TO THE COMMISSION FOR HEALTH SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143B-143, as the same appears in the 1973 Interim Supplement to Volume 3C of the General Statutes, is amended on line two of the first paragraph by striking the number “11” and substituting in lieu thereof the number “12” and in line three of the first paragraph by striking the word “seven” and substituting in lieu thereof the word “eight.”

**Sec. 2.** G.S. 143B-143 is further amended on line two of the second paragraph by striking the word “and” and inserting a comma in lieu thereof, by striking the period at the end of the sentence on line three and inserting the following in lieu thereof: “, and one a registered nurse.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

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H. B. 2017

**CHAPTER 1368**

AN ACT TO INCREASE THE TRAVEL ALLOWANCE PER MILE FOR MEMBERS OF THE BOARD OF LAW EXAMINERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 84-26, as the same appears in the 1973 Cumulative Supplement to Volume 2C, is hereby amended by deleting the last part of the sentence which reads "shall not exceed ten cents (10¢) per mile." and inserting in lieu thereof the following: "shall be the same as paid other Boards and Commissions by the State."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2079

**CHAPTER 1369**

AN ACT TO PROVIDE EFFICIENCY AND CONTROL IN THE WAREHOUSING OF ALCOHOLIC BEVERAGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-15(13) is amended to read as follows:

"(13) On or before June 30, 1975, and thereafter to provide for the receipt, storage and distribution of alcoholic beverages by negotiated contract or by use of the procedures for purchase and contract of property by State agencies with a privately-owned warehouse in the Raleigh area or, alternatively and by the same procedure, with privately-owned warehouses in the several regions of the State which in the discretion of the Board would promote efficient distribution of alcoholic beverages to the local boards of alcoholic control and maintain control of such beverages and the Board's supervision thereof. The State Board of Alcoholic Control shall provide for such warehousing and distribution through contracts or sub-leases with independent contractors, except that the State Board shall have the power and authority to operate such warehouses on an interim emergency or temporary basis pursuant to a change in independent operator or for some condition substantially impeding distribution of alcoholic beverages from the warehouse. The Board shall prescribe such rules and regulations as they deem necessary for the receipt, storage and distribution of such beverages and violation of such rules and regulations shall be grounds for termination of a contract upon reasonable notice by the Board. The contract or contracts entered into pursuant to this subdivision shall provide for an annual audited financial statement, shall provide that the records of the warehouse or warehouses be available for inspection at all times by the State Board of Alcoholic Control and the Department of Revenue and shall provide that the accounts of the warehouse or warehouses regarding the receipt, storage and distribution of alcoholic beverages be subject to audit by the State Auditor."

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1969      CHAPTER 1370

AN ACT TO AMEND ARTICLE 31B OF CHAPTER 106 OF THE  
GENERAL STATUTES, THE VEGETABLE PLANT LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 106-284.15, as the same appears in Volume 3A of the General Statutes, is amended by striking the word “practices” appearing in line two thereof and substituting in lieu thereof the word “production”.

**Sec. 2.** G.S. 106-284.16, as the same appears in Volume 3A of the General Statutes, is rewritten in its entirety to read as follows:

“§ 106-284.16. For the purpose of this Article, the following terms shall be construed respectively to mean:

(1) ‘Certified vegetable plants for transplanting’ shall mean plants which have been tagged or labelled so as to indicate that such plants have been inspected by an authorized agent of an officially recognized State inspecting or certifying agency of some state, and found to conform to the appropriate standards set by the North Carolina Board of Agriculture.

(2) ‘Vegetable plants’ shall mean such plants as asparagus, pepper, eggplant, sweet potato, onion, cabbage and other cole crops, tomato plants, white seed potatoes and onion sets intended for transplanting purposes and such other vegetable plants intended for transplanting purposes as the North Carolina Board of Agriculture may designate by regulation in order to protect the vegetable industry.

(3) As applied to vegetable plants ‘standards’ include the qualities of color, freshness, firmness, strength, straightness, unbroken and undamaged condition, uniformity of size, and freedom from injurious insects, diseases, nematodes, snails, and other pests and means the standards with respect thereto as established and fixed in regulations adopted by the North Carolina Board of Agriculture.”

**Sec. 3.** G.S. 106-284.17, as the same appears in Volume 3A of the General Statutes, is amended by inserting the words “as set by the North Carolina Board of Agriculture” in line four thereof between the words “standards” and “and”.

**Sec. 4.** G.S. 106-284.18, as the same appears in Volume 3A of the General Statutes, is amended by inserting the words “intent, purposes and” at the beginning of line three thereof.

**Sec. 5.** G.S. 106-284.19, as the same appears in Volume 3A of the General Statutes, is amended by striking the second sentence thereof and substituting in lieu thereof the following:

“When the Commissioner or his authorized inspectors find vegetable plants being held, offered or exposed for sale in violation of any of the provisions of this Article or any rule or regulation adopted pursuant thereto, he may issue a ‘Stop Sale Notice’ to the owner or custodian of any such vegetable plants and shall tag such plants as are in violation. It shall be unlawful for anyone after notice or receipt of such ‘Stop Sale Notice’ to remove such notice from plants or from any location to which attached; or to plant, sell, give away, move or exchange for transplanting purposes any plants in respect to which such notice has been issued unless and until so authorized by the Commissioner or his agent or a court of competent jurisdiction.”

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**Sec. 6.** G.S. 106-284.20, as the same appears in Volume 3A of the General Statutes, is rewritten in its entirety as follows:

“If anyone shall interfere with or attempt to interfere with the Commissioner or any of his agents, while engaged in the performance of his duties under this law or shall violate any provision of this law or any rule or regulation of the Board of Agriculture adopted pursuant to this law, he shall be guilty of a misdemeanor and shall be fined and imprisoned in the discretion of the court. Each day’s violation shall constitute a separate offense.”

**Sec. 7.** G.S. 106-284.22, as the same appears in Volume 3A of the General Statutes, is rewritten in its entirety to read as follows:

“§ 106-284.22. *When Article not applicable.*—The provisions of this Article shall not apply:

(1) To the sale by a grower or retail merchant of vegetable plants grown within this State when such sale is made for home or garden or any non-commercial use; provided, however, the provisions shall apply to such sale when such plants are found to be infested with pests so that the exposure for sale or planting is deemed by the Commissioner or his agent to be a hazard to the commercial vegetable industry of North Carolina.

(2) To the sale of vegetable plants for commercial transplanting purposes in this State when grown within this State and sold by a plant producer to a planter having personal knowledge of the conditions under which such vegetable plants were grown or produced provided that such plants are transplanted within a 30-mile radius of the location at which they were grown; but also provided, however, the provisions shall apply to such sale when such plants are found to be infested with pests so that the exposure for sale or planting is deemed by the Commissioner or his agent to be a hazard to the commercial vegetable industry of North Carolina.”

**Sec. 8.** Article 31B of Chapter 106 is further amended by adding at the end thereof the following:

“§ 106-284.23. If any provision of this law or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this law which can be enforced independently without any invalid provision or application and to this end the provisions of this law are declared to be severable.”

**Sec. 9.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## H. B. 2149

## CHAPTER 1371

AN ACT TO AMEND GENERAL STATUTES SECTION 152-1 SO AS TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF GASTON COUNTY TO APPOINT AN ASSISTANT CORONER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 152-1 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“The Board of County Commissioners of Gaston County is hereby authorized, in its discretion, to appoint some fit and suitable person to act as assistant coroner for Gaston County. The person so appointed shall hold office at the pleasure of the board of county commissioners and shall take and subscribe

to the oaths prescribed for public officers. He shall also execute an undertaking conditioned upon the faithful discharge of the duties of his office with good and sufficient surety in the penal sum of two thousand dollars (\$2,000) payable to the State of North Carolina and approved by the board of county commissioners. The assistant coroner shall not be employed by or employed with the coroner nor shall the assistant coroner own or hold any pecuniary interest in any business in which the coroner holds interest. The assistant coroner so appointed shall be vested with all the powers and duties conferred upon the regular coroner with respect to holding inquests over deceased bodies and shall be subject to the penalties and liabilities imposed on the coroner. He shall serve in the absence of the Coroner of Gaston County and as necessary at such times as is required by the board of county commissioners and shall receive such compensation for his services as the board of county commissioners shall determine.”

**Sec. 2.** This act shall apply only to Gaston County.

**Sec. 3.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 4.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 1126

**CHAPTER 1372**

AN ACT CONCERNING THE DEFENSE OF STATE EMPLOYEES AND FORMER EMPLOYEES IN RELATION TO CLAIMS ARISING OUT OF OR IN CONNECTION WITH THEIR EMPLOYMENT BY THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 31A of Chapter 143 of the General Statutes of North Carolina is hereby amended by adding subsection 143-300.6 to read as follows:

“§ 143-300.6. *Payment of judgments.*—(a) All final judgments awarded in courts of competent jurisdiction against State employees in actions or suits to which this Article applies, or any amounts payable under a settlement of such suits in accordance with this Section, shall be paid by the department, agency, board, commission, institution, bureau or authority which employs or employed the State employee. Nothing in this Section shall be deemed to waive the sovereign immunity of the State with respect to a claim covered under this Section or to authorize the payment of any judgment or settlement against a State employee in excess of twenty thousand dollars (\$20,000).

(b) The Attorney General may compromise and settle any claim covered by this Section to the extent that he finds the same to be valid, provided that no settlement of any such claim in an amount in excess of twenty thousand dollars (\$20,000) shall be made without the approval of the employee. In a case wherein the Attorney General has stated in writing that private counsel ought to be provided because of a conflict with the interests of the State, the settlement in excess of twenty thousand dollars (\$20,000) must be approved by the private counsel.”

**Sec. 2.** This act shall become effective on ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 1644                      **CHAPTER 1373**

AN ACT TO AMEND CHAPTER 93B OF THE GENERAL STATUTES TO PROVIDE FOR CONTINUATION IN OFFICE OF LICENSE BOARD MEMBERS UNTIL A SUCCESSOR IS APPOINTED.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 93B of the General Statutes is hereby amended by adding a new section, G.S. 93B-6 thereto to read as follows:

“§ 93B-6. *Expiration of term of appointment of board member.*—A Board member serving on an occupational and professional licensing board whose term of appointment has expired shall continue to serve until a successor is appointed and qualified.”

**Sec. 2.** This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2042                      **CHAPTER 1374**

AN ACT TO DEFINE THE TERMS HOUSE AND BUILDING AS USED IN THE ARSON AND OTHER BURNINGS STATUTES TO INCLUDE MOBILE HOMES AND TO MAKE THE CRIME OF ARSON INCLUDE THE BURNING OF A MOBILE HOME.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 14, Article 15 of the General Statutes is amended by adding new subdivisions G.S. 14-69.3 and G.S. 14-69.4 as follows:

“§ 14-69.3. As used in this Article, the terms house and building shall be defined to include mobile and manufactured type housing and recreational trailers.

“§ 14-69.4. If any person shall willfully and maliciously burn any mobile home or manufactured type house or recreational trailer home which is the dwelling house of another and which is occupied at the time of the burning, the same shall constitute the crime of arson.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2091                      **CHAPTER 1375**

AN ACT TO AMEND G.S. 153A-301 TO ALLOW A BOARD OF COUNTY COMMISSIONERS TO PROVIDE AMBULANCE AND RESCUE SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 153A-301 is hereby amended by adding the following subsection immediately following subsection (6), to be designated subsection (7), and to read as follows:

“(7) Ambulance and rescue.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

H. B. 2113                      **CHAPTER 1376**

AN ACT TO INCREASE THE MAXIMUM NUMBER OF MAGISTRATES AUTHORIZED FOR GRANVILLE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-133 as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is amended by striking the figure "4" from the column headed "Magistrates - max." in the line applying to Granville County in District 9, and by inserting in lieu thereof the figure "5".

**Sec. 2.** This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. B. 381                        **CHAPTER 1377**

AN ACT TO AMEND G.S. 116-143.1 TO GRANT IN-STATE TUITION RATES TO THE SPOUSE OF A NORTH CAROLINA RESIDENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 116-143.1 is hereby amended by adding a new subsection "(d)" which shall read as follows:

"(d) Any spouse of a North Carolina resident shall be entitled to in-state tuition rates at the beginning of the next succeeding academic period.

(e) Any person who by virtue of marriage to a North Carolina resident thereby acquires, by operation of law, a bona fide legal residence in North Carolina shall be eligible for in-state tuition rates at a time calculated in that one of the following ways which earlier confers such eligibility:

(1) If the original North Carolina resident spouse had maintained such legal residence for a period of at least 12 months immediately prior to the marriage, the newly resident spouse shall first be eligible for the in-state rate at the next succeeding semester, term or quarter following the date of marriage;

(2) If the original North Carolina resident spouse had not maintained such legal residence for a period of at least 12 months immediately prior to the marriage, the newly resident spouse shall first be eligible for the in-state rate at the next succeeding semester, quarter or term following expiration of 12 months of legal residence by the original resident spouse."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 503                        **CHAPTER 1378**

AN ACT TO BE KNOWN AS THE PROTECTION OF THE ABUSED OR NEGLECTED ELDERLY ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 108 of the General Statutes is hereby amended by adding at the end thereof a new Article 6 to read as follows:

"Article 6.

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“Protection of the Abused or Neglected Elderly Act.

“§ 108-91. *Short title.*—This Article may be cited as the Protection of the Abused or Neglected Elderly Act.

“§ 108-92. *Legislative intent and purpose.*—Determined to protect the increasing number of elderly infirm persons in North Carolina who are abused or neglected, the General Assembly enacts this Article to provide protective services for such persons.

“§ 108-93. *Definitions.*—(a) The words ‘elderly person’ shall mean any person over the age of 65 who resides in the State of North Carolina.

(b) An ‘elderly person’ shall be deemed to be ‘in need of protective services’ if that person is unable to perform or obtain for himself services which are necessary to maintain his mental and physical health.

(c) The words ‘services which are necessary to maintain mental and physical health’ shall include, but shall not be limited to the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, and transportation necessary to secure any of the above stated needs; provided that the words ‘services which are necessary to maintain mental and physical health’ shall not include taking the person into physical custody without his consent except as provided for in G.S. 108-97(a) and in Chapter 122 of the General Statutes.

(d) The words ‘protective services’ shall mean services provided by the State or other government or private organizations or individuals which are necessary to prevent abuse or neglect. Abuse shall include the willful infliction of physical pain, injury or mental anguish or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health. Neglect refers to an elderly person who is either living alone and not able to provide for himself the services which are necessary to maintain his mental and physical health or is not receiving the said services from his caretaker.

(e) The word ‘director’ shall mean the director of the Department of Social Services of the county in which the person resides or is found or his delegated representative.

(f) The word ‘caretaker’ shall mean an individual who has the responsibility for the care of the elderly person as a result of family relationship or who has assumed the responsibility for the care of the elderly person voluntarily or by contract.

(g) The word ‘indigent’ shall mean indigent as defined in G.S. 7A-450.

“§ 108-94. *Duty to report.*—(a) Any person having reasonable cause to believe that an elderly person is in need of protective services shall report such information to the director.

(b) Anyone who makes a report pursuant to this statute or who testifies in any judicial proceeding arising from the report shall be immune from any civil or criminal liability on account of such report or testimony, unless such person acted in bad faith or with a malicious purpose.

“§ 108-95. *Duty of director upon receiving report.*—Any director receiving a report that an elderly person is in need of protective services shall make a prompt and thorough evaluation to determine whether the elderly person is in need of protective services and what services are needed. The evaluation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. After completing the evaluation the director

shall make a written report of the case indicating whether he believes protective services are needed and shall notify the individual making the report of his determination as to whether the elderly person needs protective services.

“§ 108-96. *Provision of protective services with the consent of the person.*—

(a) If the director determines that an elderly person is in need of protective services, he shall immediately provide or arrange for the provision of protective services, provided that the elderly person consents.

(b) When a caretaker of an elderly person who consents to the receipt of protective services refuses to allow the provision of such services to the elderly person, the director may petition the district court for an order enjoining the caretaker from interfering with the provision of protective services to the elderly person. The petition must allege specific facts sufficient to show that the elderly person is in need of protective services and consents to the receipt of protective services and that the caretaker refuses to allow the provision of such services. If the judge finds that the elderly person is in need of protective services and that the caretaker refuses to allow the provision of such services, he may issue an order enjoining the caretaker from interfering with the provision of protective services to the elderly person.

(c) If an elderly person does not consent to the receipt of protective services, or if he withdraws his consent, the services shall not be provided, unless the director reasonably determines that the elderly person lacks capacity to consent, in which case he may seek court authorization to provide protective services pursuant to G.S. 108-97.

“§ 108.97. *Provision of protective services to elderly persons who do not have the capacity to consent.*—(a) If the director reasonably determines that an elderly person is being abused or neglected and lacks capacity to consent to protective services, then the director may petition the district court for an order authorizing the provision of protective services. The petition must allege specific facts sufficient to show that the elderly person is in need of protective services and lacks capacity to consent to them.

(b) The court shall set the case for hearing within 14 days after the filing of the petition if sufficiently specific facts are alleged. The elderly person must receive at least five days' notice of the hearing. He has the right to be present and represented by counsel at the hearing. If the person is indigent or, in the determination of the judge, lacks the capacity to waive the right to counsel, then the court shall appoint counsel. If the person is indigent, the cost of representation shall be borne by the State. If the person is not indigent, the cost of representation by counsel shall be added to the court cost.

If, at the hearing, the judge finds that the elderly person is in need of protective services and lacks capacity to consent to protective services, he may issue an order authorizing the provision of protective services. This order may include the designation of an individual or organization to be responsible for the personal welfare of the person and for consenting to protective services in his behalf. No elderly person may be committed to a mental health facility under this act.

(c) Emergency orders prior to the hearing. If, on the basis of the facts alleged in the director's petition, the judge makes a preliminary finding that the elderly person lacks capacity to consent and will be in substantial danger of death or may suffer irreparable harm if protective services are not provided immediately, then the judge may issue an emergency order authorizing the immediate

provision of protective services; but nevertheless the court shall proceed in accordance with subsection (b) of this section, and the emergency order shall have no force or effect after the required hearing.

“§ 108-98. *Motion in the cause.*—Notwithstanding any finding by the court of lack of capacity of the elderly person pursuant to the procedures set forth in G.S. 108-97, the elderly person or the individual or organization designated to be responsible for the personal welfare of the elderly person shall have the right to bring a motion in the cause for review of an order issued pursuant to the procedures set forth in G.S. 108-97.

“§ 108-99. *Utilization of available services.*—In performing the duties set forth in this Article, the director may utilize the staff of the county department of social services, the county health departments, or any other public or private agencies, or individuals who may be available.

“§ 108-100. *Privilege for confidential communications.*—Notwithstanding any privilege for confidential communications between husband and wife, the judge at the hearing may compel testimony of either or both if he finds that such testimony is necessary to a proper administration of justice.

“§ 108-101. *Payment for protective services.*—At the time the director, in accordance with the provisions of G.S. 108-95, makes an evaluation of the case reported, then it shall be determined, according to regulations set by the Social Services Commission, whether the individual is financially capable of paying for the protective services. If he is, he shall make reimbursement for the costs of providing the needed protective services. If it is determined that he is not financially capable of paying for such needed services, they shall be provided at no cost to the recipient of the services.”

**Sec. 2.** G.S. 7A-451 is hereby amended to delete the word “and” at the end of subsection (7) and to insert after subsection (8) the following:

“and (9) A proceeding for the provision of protective services according to Chapter 108, Article 6, of the General Statutes.”

**Sec. 3.** G.S. 7A-246 is hereby amended to insert after the words “special proceedings” the words “except proceedings under the Protection of the Abused or Neglected Elderly Act (Chapter 108, Article 6, of the General Statutes).”

**Sec. 4.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## S. B. 573

## CHAPTER 1379

AN ACT TO AMEND ARTICLE 4 OF CHAPTER 147 OF THE GENERAL STATUTES TO REQUIRE ALL APPOINTMENTS MADE TO ANY STATE BOARD, AGENCY, COMMISSION, COUNCIL OR AUTHORITY BE FILED WITH THE SECRETARY OF STATE AS A NECESSARY PREREQUISITE TO SUCH APPOINTMENTS BECOMING EFFECTIVE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-36 is hereby amended by adding a new subsection at the end thereof to be numbered (14) and to read as follows:

“(14) To receive and maintain a journal of all appointments made to any State board, agency, commission, council or authority which is filed in the office of the Secretary of State.”

**Sec. 2.** Article 4 of Chapter 147 of the General Statutes is hereby amended by adding a new section at the end thereof to be numbered G.S. 147-54.2 and to read as follows:

“§ 147-54.2. *Filing of official appointments.*—All appointments to any State board, agency, commission, council or authority made on or after June 1, 1974, shall be filed in the office of the Secretary of State of North Carolina. All appointments which are required by this section to be filed shall contain the date of the appointment, the legal authority for the appointment, and the date on which such appointment expires.

Appointments made pursuant to this act between January 1, 1973, and June 1, 1974, shall be filed within 10 days of date of appointment or ratification, whichever occurs last.”

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 589

**CHAPTER 1380**

AN ACT TO REPEAL CHAPTER 78 OF THE GENERAL STATUTES AND TO CREATE A NEW CHAPTER 78 CONCERNING SECURITIES LAW.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 78-1 through and including G.S. 78-24, as the same appears in Volume 2C and the 1971 Cumulative Supplement of the General Statutes is hereby repealed, and a new Chapter to be known as Chapter 78 is hereby created and shall read as follows:

“Article 1.

“Title and Definitions.

“§ 78-1. *Title.*—This Chapter shall be known and may be cited as the North Carolina Securities Act.

“§ 78-2. *Definitions.*—When used in this Chapter, unless the context otherwise requires:

(a) ‘Administrator’ means the official designated in Section 78-19(a).

(b) ‘Dealer’ means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. ‘Dealer’ does not include (1) a salesman, (2) a bank, savings institution, or trust company, (3) a person who has no place of business in this State if (A) he effects transactions in this State exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (B) in the case of a person registered as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934 and in one or more states, during any period of 12 consecutive months he does not effect more than 15 purchases or sales in this State in any manner with persons other than those specified in clause (A), whether or not the dealer or any of the purchasers or sellers is then present in this State, or (4) an issuer if (A) the security is exempted under clauses (1), (2), (3), (10), (11), (13), or (14) of Section 78-6, or the transaction is exempted under Section 78-7, and

such exemption has not been denied or revoked under Section 78-8, or (B) the security is registered under this Chapter and it is offered and sold through a registered dealer, or (C) all of the following conditions are met: (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective purchaser in this State, and (ii) the total amount of the offering, and the total number of purchasers, both within and without this State, does not exceed five hundred thousand dollars (\$500,000) and 100, respectively.

(c) 'Fraud', 'deceit', and 'defraud' are not limited to common-law deceit.

(d) 'Guaranteed' means guaranteed as to payment of principal, interest, or dividends.

(e) 'Issuer' means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payments out of production under such titles or leases, there is not considered to be any 'issuer'.

(f) 'Non-issuer' means not directly or indirectly for the benefit of the issuer.

(g) 'Person' means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(h) (1) 'Sale' or 'sell' includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) 'Offer' or 'offer to sell' includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subsection and the term 'purchase' as used in this Chapter do not include

(A) any bona fide loan, pledge, or other transaction creating a bona fide security interest; (B) any stock split and any security dividend, whether the corporation distributing the dividend is the issuer of the security or not, if nothing of value is given by security holders for the dividend other than the surrender of a right to a cash or property dividend when each security holder may elect to take the dividend in cash or property or in

securities; (C) any transaction incident to a class vote by security holders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (D) any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash.

(i) 'Salesman' means any individual other than a dealer who represents a dealer or issuer in effecting or attempting to effect purchases or sales of securities. 'Salesman' does not include an individual who represents an issuer in (1) effecting transactions in a security exempted by clauses (1), (2), (3), (10), (11), (13), or (14) of Section 78-6, (2) effecting transactions exempted by Section 78-7, or (3) effecting transactions meeting the requirements of Section 78-2(b)(4) (C), or (4) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this State. A partner, officer, or director of a dealer or issuer, or a person occupying a similar status or performing similar functions, is a salesman only if he otherwise comes within this definition.

(j) 'Securities Act of 1933', 'Securities Exchange Act of 1934', 'Public Utility Holding Company Act of 1935', 'Investment Company Act of 1940', and 'Internal Revenue Code' mean the federal statutes of those names as amended before or after the effective date of this Chapter.

(k) 'Security' means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract, including without limitation any investment contract taking the form of a whiskey warehouse receipt or other investment of money in whiskey or malt beverages; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. 'Security' does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay (i) a fixed sum of money either in a lump sum or periodically for life or for some other specified period, or (ii) benefits or payments or value which vary so as to reflect investment results of any segregated portfolio of investments or of a designated separate account or accounts in which amounts received or retained in connection with any of such contracts have been placed if the delivering or issuing insurance company has currently satisfied the Commissioner of Insurance that it is in compliance with G.S. 58-79.2.

(l) 'State' means any state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

"Article 2.

“Fraudulent and Other Prohibited Practices.

“§ 78-3. *Sales and purchases.*—It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

(1) to employ any device, scheme, or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading or,

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

“§ 78-4. *Misleading filings.*—It is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding under this Chapter, any statement which is, at the time and in the light of the circumstances under which it is made false or misleading in any material respect.

“§ 78-5. *Unlawful representations concerning registration or exemption.*—(a) Neither (1) the fact that an application for registration under Article 5 or a registration statement under Article 4 has been filed nor (2) the fact that a person or security is effectively registered constitutes a finding by the Administrator that any document filed under this Chapter is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the Administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with subsection (a).

“Article 3.

“Exemptions.

“§ 78-6. *Exempt securities.*—The following securities are exempted from Section 78-9 and Section 78-23(d):

(1) any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state;

(4) any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this State;

(5) any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this State; but this exemption does not apply to an annuity contract, investment contract, or similar security under which the

promised payments are not fixed in dollars but are substantially dependent upon the investment results of a segregated fund or account invested in securities unless the issuing or delivering company has satisfied the Commissioner of Insurance that it is in compliance with G.S. 58-79.2;

(6) any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this State;

(7) any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange or on any other national securities exchange registered under the Securities Exchange Act of 1934 and designated by rule of the Administrator; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) any security issued by any person organized under the laws of this State or having its principal office in this State and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(10) any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) any investment contract and any stock option plan qualified under Subchapter D of Chapter One of Subtitle A of the Internal Revenue Code, or other comparable provision enacted in lieu thereof, and issued in connection with an employees' stock purchase, stock option, savings, pension, profit-sharing, or similar benefit plan;

(12) any bond or note secured by lien on vessels shown by policies of marine insurance taken out in responsible companies to be of value, after deducting any and all other indebtedness secured by prior lien, of not less than one hundred twenty-five percent (125%) of the par amount of such bonds or notes;

(13) any capital stock issued by a professional corporation organized pursuant to the provisions of the Professional Corporation Act, Chapter 55B;

(14) Any security issued by (1) any mutual association or agricultural marketing association organized or domesticated and existing under Subchapter IV or Subchapter V, respectively, of Chapter 54 of the General Statutes of North Carolina; or (2) any electric or telephone membership corporation organized or domesticated and existing under Chapter 117 of the General Statutes of North Carolina.

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“§ 78-7. *Exempt transactions.*—The following transactions are exempted from Section 78-9 and Section 78-23(d):

(1) any isolated non-issuer transaction, whether effected through a dealer or not;

(2) any non-issuer distribution other than by a controlling person of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (B) a registered dealer files with the Administrator such information relating to the issuer as the Administrator may by rule or order require, or (C) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(3) any non-issuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy; but the Administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the dealer for a specified period;

(4) any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) any transaction in a bond or other evidence of indebtedness secured by a lien or security interest in real or personal property, or by an agreement for the sale of real estate or chattels, if the entire security interest or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(6) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(7) any transaction executed by a person holding a bona fide security interest without any purpose of evading this Chapter;

(8) any offer or sale to a corporation, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) any transaction pursuant to an offer directed by the offeror to not more than 25 persons (including those designated in paragraph (8)) in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment; provided, however, the Administrator may by rule or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption; provided further, the Administrator may by rule or order exempt any transaction or type of transaction that is exempted from the provisions of Section 5 of the Securities Act of 1933 by virtue of any rule, or rules, promulgated, either before or after the effective date of this Chapter, by the Securities and Exchange Commission under Section 4(2) of such Act;

(10) any offer or sale of preorganization certificates or subscriptions if (A) no commission or other remuneration is paid or given directly or indirectly for

soliciting any prospective subscriber, (B) the total amount of the offering, and the total number of purchasers, both within and without this State, does not exceed five hundred thousand dollars (\$500,000) and 100, respectively, (C) no certificate or subscription is binding on the subscriber for more than six months after the date of execution of the first certificate or subscription; provided, however, that if a registration statement relating to the securities to be issued is filed under Section 78-12 within such six-month period certificates or subscriptions may continue to be binding on the subscribers until 10 days after such registration statement becomes effective or until effectiveness is denied, and (D) no payment is made by any subscriber;

(11) any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, non-transferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if (A) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (B) the issuer first files a notice specifying the terms of the offer and the Administrator does not by order disallow the exemption within the next ten full business days;

(12) any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act;

(13) any offer or sale by a domestic corporation of its own securities if (A) the corporation was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (B) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, and (C) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State;

(14) any offer, sale or issuance of securities pursuant to an investment contract or stock option plan which is exempt under the provisions of Section 78-6(11) of this Chapter.

“§ 78-8. *Denial and revocation of exemptions.*—(a) The Administrator may by order deny or revoke any exemption specified in clauses (8), (9), or (11) of Section 78-6 or in Section 78-7 with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the Administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the Administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of an opportunity for hearing to all interested persons, may not modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered

to have violated Section 78-9 or 78-23(d) by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the order.

(b) In any proceeding under this Chapter, the burden of providing an exemption or an exception from a definition is upon the person claiming it.

“Article 4.

“Registration of Securities.

“§ 78-9. *Registration requirement.*—It is unlawful for any person to offer or sell any security in this State unless (1) it is registered under this Chapter or (2) the security or transaction is exempted under Section 78-6 or Section 78-7 and such exemption has not been denied or revoked under Section 78-8.

“§ 78-10. *Registration by notification.*—(a) The following securities may be registered by notification whether or not they are also eligible for registration by coordination under Section 78-11:

- (1) any security whose issuer and any predecessors have been in continuous operation for at least five years if (A) there has been no default during the current fiscal year or within the three preceding fiscal years in the payment of principal, interest, or dividends on any security of the issuer (or any predecessor) with a fixed maturity or a fixed interest or dividend provision, and (B) the issuer and any predecessors during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed and equal at least five percent (5%) of the amount of such outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), or (ii) which, if the issuer and any predecessors have not had any security of the type specified in clause (i) outstanding for three full fiscal years, equal at least five percent (5%) of the amount (as measured in clause (i)) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this State) are issued;
- (2) any security (other than a certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease) registered for non-issuer distribution if (A) any security of the same class has been registered under this Chapter or a predecessor law within five years of the date of filing the registration statement, or (B) the security being registered was originally issued within five years of the date of filing the registration statement pursuant to an exemption under this Chapter or a predecessor law;
- (3) any bonds or notes secured by a first mortgage upon agricultural lands used and valuable for agricultural purposes (not including oil, gas or mining property or leases) and the principal value of the bonds or notes

does not exceed sixty percent (60%) of the then fair market value of the lands and improvements thereon;

- (4) any bonds or notes secured by a first mortgage on city, town, or village real estate situated in any state or in Canada if the principal value of the bonds and notes does not exceed sixty percent (60%) of the fair market value of the land and improvements thereon and the real estate is used principally to produce through rental a net annual income or has a fair net rental value at least equal to the annual interest on the bonds and notes, plus not less than three percent (3%) of the principal of said mortgage indebtedness;
- (5) any bond or note secured by a first lien on collateral pledged as security with a bank or trust company as trustee, which bank or trust company is incorporated under the laws of and subject to examination and supervision by the United States or by a state of the United States, and which collateral shall consist of (i) a principal amount of first mortgage bonds or notes meeting the requirements of G.S. 78-10(a)(3) or G.S. 78-10(a)(4) or (ii) a principal amount of obligations of the United States or (iii) cash equal to not less than one hundred percent (100%) of the principal secured, or (iv) a principal amount of obligations meeting the requirements of (i), (ii) or (iii) of this subsection in any combination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in Section 78-13(c) and the consent to service of process required by Section 78-27(f):

- (1) a statement demonstrating eligibility for registration by notification;
- (2) with respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state (or foreign jurisdiction) and the date of its organization; and the general character and location of its business;
- (3) with respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; and a statement of his reasons for making the offering;
- (4) a description of the security being registered;
- (5) the information and documents specified in clauses (8), (10) and (12) of Section 78-12(b); and
- (6) in the case of any registration under Section 78-10(a)(2) which does not also satisfy the conditions of Section 78-10(a)(1), a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than two years.

(c) If no stop order is in effect and no proceeding is pending under Section 78-14, a registration statement under this section automatically becomes effective at three o'clock Eastern Standard Time in the afternoon of the tenth

full business day after the filing of the registration statement or the last amendment, or at such earlier time as the Administrator determines.

“§ 78-11. *Registration by coordination.*—(a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in Section 78-13(c) and the consent to service of process required by Section 78-27(f):

- (1) three copies of the latest form of prospectus filed under the Securities Act of 1933;
- (2) a copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;
- (3) if the Administrator requests, any other information or copies of any other documents filed under the Securities Act of 1933; and
- (4) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order is in effect and no proceeding is pending under Section 78-14; (2) the registration statement has been on file with the Administrator for at least 10 days; and (3) a statement of the maximum proposed offering price and the maximum underwriting discounts and commissions expressed as a percentage of the final offering price has been on file for two full business days or such shorter period as the Administrator permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the Administrator by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. ‘Price amendment’ means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Administrator may enter a stop order without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Administrator may by rule or otherwise waive either or both of the conditions specified in clauses (2) and (3). If the federal registration statement

becomes effective before all the conditions in this subsection are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Administrator of the date when the federal registration statement is expected to become effective, the Administrator shall promptly advise the registrant by telephone or telegraph, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under Section 78-14; but this advice by the Administrator does not preclude the institution of such a proceeding at any time.

“§ 78-12. *Registration by qualification.*—(a) Any security may be registered by qualification upon the following conditions:

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in Section 78-13(c) and the consent to service of process required by Section 78-27(f):

- (1) with respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;
- (2) with respect to every director and officer of the issuer or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within 30 days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past three years or proposed to be effected;
- (3) with respect to persons covered by clause (2): the remuneration paid during the past 12 months or fiscal year and estimated to be paid during the next fiscal year, directly or indirectly, by the issuer (together with all predecessors, parents, subsidiaries, and affiliates) to all those persons in the aggregate;
- (4) with respect to any person owning of record or beneficially if known, ten percent (10%) or more of the outstanding shares of any class of equity security of the issuer: the information specified in clause (2) other than his occupation;
- (5) with respect to every promoter if the issuer was organized within the past three years: the information specified in clause (2), any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment;
- (6) with respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; a description of any material interest in any material transaction with the issuer of any significant subsidiary

- effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering;
- (7) the capitalization and long-term debt (on both current and a pro forma basis) of the issuer and any significant subsidiary including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past three years or is obligated to issue any of its securities;
  - (8) the kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately, cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;
  - (9) the estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amount of any funds to be raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);
  - (10) a description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in clauses (2), (4), (5), (6), or (8) and by any person who holds or will hold ten percent (10%) or more in the aggregate of any such options;
  - (11) the dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made

within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities);

- (12) a copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering;
- (13) a specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, or their substantial equivalents, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;
- (14) a signed or conformed copy of an opinion of counsel as to the legality of the security being registered (with an English translation if it is in a foreign language), which shall state whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer;
- (15) the written consent of any accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if any such person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement;
- (16) a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant; and
- (17) such additional information as the Administrator requires by rule or order.

(c) A registration statement under this section becomes effective when the Administrator so orders.

(d) The Administrator may by rule or order require as a condition of registration under this section that a prospectus containing any designated part of the information specified in subsection (b) be sent or given to each person to whom an offer is made before or concurrently with (1) the first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (2) the confirmation of any sale made by or for the account of any such person, (3) payment pursuant to any such sale, or (4) delivery of the security pursuant to any such sale, whichever first occurs.

“§ 78-13. *Provisions applicable to registration generally.*—(a) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered dealer.

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(b) Every person filing a registration statement shall pay a filing fee of twenty-five dollars (\$25.00), plus a registration fee of one-tenth of one percent of the maximum aggregate offering price at which the registered securities are to be offered in this State, but the registration fee shall in no case be less than twenty-five dollars (\$25.00) or more than two hundred fifty dollars (\$250.00). When a registration statement is withdrawn before the effective date or a preeffective stop order is entered under Section 78-14, the Administrator shall retain the filing fee. In the case of a registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, the Administrator may by rule or order prescribe the maximum amount of securities (but in no event less than two hundred fifty thousand dollars (\$250,000)) that may be offered upon payment of the maximum registration fee, and prescribe different amounts for different classes of issuers.

(c) Every registration statement shall specify (1) the amount of securities to be offered in this State; (2) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed; and (3) any adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

(d) Any document filed under this Chapter or a predecessor law within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The Administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(f) In the case of a non-issuer distribution, information may not be required under Section 78-12 or 78-13(i) unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(g) The Administrator may by rule or order require as a condition of registration by qualification or coordination (1) that any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and (2) that the proceeds from the sale of the registered security in this State be impounded until the issuer receives a specified amount from the sale of the securities either in this State or elsewhere. The Administrator may by rule or order determine the conditions of any escrow or impounding required hereunder, but he may not reject a depository solely because of location in another state.

(h) Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under Section 78-14. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any non-issuer transaction (1) so long as the registration statement is effective and (2)

between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under Section 78-14 (if the registration statement did not relate in whole or in part to a non-issuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the Administrator.

(i) So long as a registration statement is effective, the Administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose progress of the offering.

(j) A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the Administrator so orders. Every person filing such an amendment shall pay a registration fee, calculated in the manner specified in subsection (b), and such filing fee not to exceed twenty five dollars (\$25.00) as the Administrator may by rule or order require, with respect to the additional securities proposed to be offered.

“§ 78-14. *Denial, suspension, and revocation of registration.*—(a) The Administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds (1) that the order is in the public interest and (2) that:

- (A) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under Section 78-13(j) as of its effective date, or any report under Section 78-13(i) is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or
- (B) any provision of this Chapter or any rule, order, or condition lawfully imposed under this Chapter has been willfully violated, in connection with the offering, by (i) the person filing the registration statement, (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (iii) any underwriter; or
- (C) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (i) the Administrator may not institute a proceeding against an effective registration statement under clause (C) more than one year from the date of the order or injunction relied on, and (ii) he may not enter an order under clause (C) on the basis of an order or injunction entered under any other state act unless that order or injunction was based on

- facts which would currently constitute a ground for a stop order under this section; or
- (D) the issuer's enterprise or method of business includes or would include activities which are illegal where performed; or
  - (E) the offering has worked or tended to work a fraud upon purchasers or would so operate; or
  - (F) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options; or
  - (G) when a security is sought to be registered by notification, it is not eligible for such registration; or
  - (H) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by Section 78-11(b)(4); or
  - (I) the applicant or registrant has failed to pay the proper fees; but the Administrator may enter only a denial-order under this clause and he shall vacate any such order when the deficiency has been corrected.

The Administrator may not institute a stop-order proceeding against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next 30 days.

(b) The following provisions govern the application of Section 78-14(a)(2)(F):

(1) The Administrator may not enter a stop order against a registration statement based on one or more of the grounds set forth in clause (F) of Section 78-14(a)(2) if the offering, or the dealer, or any dealers, making or participating in the offering, is subject to rules, promulgated by any national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934, providing safeguards against unreasonable profits or unreasonable rates or commissions or other charges, and such rules are complied with.

(2) The Administrator may by rule or order require such evidence of compliance with such rules as he may deem advisable.

(c) The Administrator may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify each person specified in subsection (d) that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of an opportunity for hearing to each person specified in subsection (d), may modify or vacate the order or extend it until final determination.

(d) No stop order may be entered under any part of this section except the first sentence of subsection (c) without (1) appropriate prior notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(e) The Administrator may vacate or modify a stop order if he finds that the conditions which prompted entry have changed or that it is otherwise in the public interest to do so.

“Article 5.

“Registration of Dealers and Salesmen.

“§ 78-15. *Registration requirement.*—(a) It is unlawful for any person to transact business in this State as a dealer or salesman unless he is registered under this Chapter. No dealer shall be eligible for registration under this Chapter, or for renewal of registration hereunder, unless such dealer is at the time registered as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

(b) It is unlawful for any dealer or issuer to employ a salesman unless the salesman is registered. The registration of a salesman is not effective during any period when he is not associated with a particular dealer registered under this Chapter or a particular issuer. When a salesman begins or terminates those activities which make him a salesman, the salesman as well as the dealer or issuer shall promptly notify the Administrator.

The Administrator may by rule or order require the return of a salesman's license upon the termination of those activities which make him a salesman or, if such return is impossible, require evidence satisfactory to the Administrator of such impossibility.

(c) Every registration expires on the thirty-first day of March of each year (or such other date not more than one year from its effective date as the Administrator may by rule or order provide) unless renewed.

“§ 78-16. *Registration procedure.*—(a) A dealer or salesman may obtain an initial or renewal registration by filing with the Administrator an application together with a consent to service of process pursuant to Section 78-27(f). The application shall contain whatever information the Administrator by rule requires concerning such matters as (1) the applicant's form and place of organization; (2) the applicant's proposed method of doing business; (3) the qualifications and business history of the applicant; in the case of a dealer, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer, and a representation that the applicant dealer is duly registered as a dealer under the Securities Exchange Act of 1934; (4) any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and (5) the applicant's financial condition and history. If no denial order is in effect and no proceeding is pending under Section 78-18, registration becomes effective at noon of the thirtieth day after an application is filed. The Administrator may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment. Registration of a dealer automatically constitutes registration of any salesman who is a partner, officer, or director, or a person occupying a similar status or performing similar functions.

(b) Every applicant for initial or renewal registration shall pay a filing fee of fifty dollars (\$50.00) in the case of a dealer and ten dollars (\$10.00) in the case of a salesman. The Administrator may by rule reduce the registration fee proportionately when the registration will be in effect for less than a full year.

(c) A registered dealer may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(d) The Administrator may by rule require registered dealers and salesmen to post surety bonds in amounts up to ten thousand dollars (\$10,000), and may determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any registrant whose net capital, which may be defined by rule, exceeds twenty-five thousand dollars (\$25,000). Every bond shall provide for suit thereon by any person who has a cause of action under Section 78-25 and, if the Administrator by rule or order requires, by any person who has a cause of action not arising under this Chapter. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two years after the sale or other act upon which it is based.

“§ 78-17. *Post-registration provisions.*—(a) Every registered dealer shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the Administrator by rule prescribes. All records so required shall be preserved for three years unless the Administrator by rule prescribes otherwise for particular types of records.

(b) Every registered dealer shall file such financial reports as the Administrator by rule prescribes.

(c) If the information contained in any document filed with the Administrator is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment unless notification of the correction has been given under Section 78-15(b).

(d) All the records referred to in subsection (a) are subject at any time or from time to time to such reasonable periodic, special, or other examinations by representatives of the Administrator, within or without this State, as the Administrator deems necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the Administrator, insofar as he deems it practicable in administering this subsection, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

“§ 78-18. *Denial, revocation, suspension, cancellation, and withdrawal of registration.*—(a) The Administrator may by order deny, suspend, or revoke any registration if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a dealer, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the dealer:

- (A) has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or
- (B) has willfully violated or willfully failed to comply with any provision of this Chapter or a predecessor law or any rule or order under this Chapter or a predecessor law; or
- (C) has been convicted, within the past 10 years, of any misdemeanor

involving a security or any aspect of the securities business, or any felony; or

- (D) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business; or
- (E) is the subject of an order of the Administrator denying, suspending, or revoking registration as a dealer or salesman; or
- (F) is the subject of an order entered within the past five years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a dealer or salesman, or the substantial equivalent of those terms as defined in this Chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but (i) the Administrator may not institute a revocation or suspension proceeding under clause (F) more than one year from the date of the order relied on, and (ii) he may not enter an order under clause (F) on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section; or
- (G) has engaged in dishonest or unethical practices in the securities business; or
- (H) is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the Administrator may not enter an order against a dealer under this clause without a finding of insolvency as to the dealer; or
- (I) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in subsection (b).

The Administrator may by order deny, suspend, or revoke any registration if he finds (1) that the order is in the public interest and (2) that the applicant or registrant:

- (J) has failed reasonably to supervise his salesmen if he is a dealer; or
- (K) has failed to pay the proper filing fee; but the Administrator may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected.

The Administrator may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next 30 days.

(b) The following provisions govern the application of Section 78-18(a)(2)(I):

- (1) The Administrator may not enter an order against a dealer on the basis of the lack of qualification of any person other than (A) the dealer himself if he is an individual or (B) a salesman of the dealer.
- (2) The Administrator may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both or, in the case of a dealer if he is registered and in good standing under the Securities Exchange Act of 1934.
- (3) The Administrator shall consider that a salesman who will work under

the supervision of a registered dealer need not have the same qualifications as a dealer.

(4) The Administrator may by rule provide for an examination which may be written or oral or both, to be taken by any class of or all applicants.

(c) The Administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, that it has been entered and of the reasons therefor and that within 15 days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the Administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a dealer or salesman, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the Administrator may by order cancel the registration or application.

(e) Withdrawal from registration as a dealer or salesman becomes effective 30 days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 78-18(a)(2)(B) within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) No order may be entered under any part of this section except the first sentence of subsection (c) without (1) appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is a salesman), (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

“Article 6.

“Administration and Review.

“§ 78-19. *Administration of act.*—(a) This Chapter shall be administered by the Secretary of State and such deputies and assistants as he shall designate. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed.

(b) It is unlawful for the Administrator or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the Administrator and which is not made public. No provision of this Chapter authorizes the Administrator or any of his officers or employees to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under this Chapter. No provision of this Chapter

either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the Administrator or any of his officers or employees.

(c) All fees provided for under this Chapter shall be collected by the Administrator and shall be paid over to the State Treasurer to go into the general fund.

“§ 78-20. *Investigations and subpoenas.*—(a) The Administrator in his discretion (1) may make such public or private investigations within or outside of this State as he deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or any rule or order hereunder, or to aid in the enforcement of this Chapter or in the prescribing of rules and forms hereunder, (2) may require or permit any person to file a statement in writing, under oath or otherwise as the Administrator determines, as to all the facts and circumstances concerning the matter to be investigated, and (3) may publish information concerning any violation of this Chapter or any rule or order hereunder.

(b) For the purpose of any investigation or proceeding under this Chapter, the Administrator or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Administrator deems relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the Administrator, may issue to the person an order requiring him to appear before the Administrator, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing any document or record before the Administrator, or in obedience to subpoena of the Administrator or any officer designated by him, or in any proceeding instituted by the Administrator, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

“§ 78-21. *Injunctions.*—Whenever it appears to the Administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Chapter or any rule or order hereunder, he may in his discretion bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with this Chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the Administrator to post a bond.

“§ 78-22. *Judicial review of orders.*—(a) Any person aggrieved by a final order of the Administrator may obtain a review of the order in the Superior Court of Wake County by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the Administrator, and thereupon the Administrator shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. The findings of the Administrator as to the facts, if supported by competent, material and substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional material evidence, and shows to the satisfaction of the court that there were reasonable grounds for failure to adduce the evidence in the hearing before the Administrator, the court may order the additional evidence to be taken before the Administrator and to be adduced upon the hearing in such manner and upon such conditions as the court considers proper. The Administrator may modify his findings and order by reason of the additional evidence together with any modified or new findings or order. The judgment of the court is final, subject to review by the Court of Appeals.

(b) The commencement of proceedings under subsection (a) does not, unless specifically ordered by the court, operate as a stay of the Administrator's order.

“§ 78-23. *Rules, forms, orders, and hearings.*—(a) The Administrator may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this Chapter, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in this Chapter, insofar as the definitions are not inconsistent with the provisions of this Chapter. For the purpose of rules and forms the Administrator may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(b) No rule, form, or order may be made, amended, or rescinded unless the Administrator finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this Chapter. In prescribing rules and forms the Administrator may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable.

(c) The Administrator may by rule or order prescribe (1) the form and content of financial statements required under this Chapter, (2) the circumstances under which consolidated financial statements shall be filed, and (3) whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(d) The Administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security or transaction is exempted by Section 78-6 or Section 78-7 and such exemption has not been denied or revoked under Section 78-8.

(e) All rules and forms of the Administrator shall be published.

(f) No provision of this Chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the Administrator, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(g) Every hearing in an administrative proceeding shall be public unless the Administrator in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.

“§ 78-24. *Administrative files and opinions.*—(a) A document is filed when it is received by the Administrator.

(b) The Administrator shall keep a register of all applications for registration and registration statements which are or have been effective under this Chapter and all denial, suspension, or revocation orders which have been entered under this Chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the Administrator prescribes.

(d) Upon request and at such reasonable charges as he prescribes, the Administrator shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this Chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The Administrator in his discretion may honor requests from interested persons for interpretative opinions.

“Article 7.

“Civil Liabilities and Criminal Penalties.

“§ 78-25. *Civil Liabilities.*—(a) Any person who

(1) offers or sells a security in violation of Sections 78-5(b), 78-9, or 78-15(a), or of any rule or order under Section 78-23(d) which requires the affirmative approval of sales literature before it is used, or of any condition imposed under Section 78-12(d) or 78-13(g), or

(2) offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the purchaser not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission, is liable to the person purchasing the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six percent (6%) per year from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it and interest at the legal rate from the date of disposition.

(b) Any person who purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to

make the statements made, in the light of the circumstances under which they are made, not misleading, shall be liable to the person selling the security to him, who may sue either at law or in equity to recover the security, plus any income received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages are the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition, over the consideration paid for the security.

(c) Every person who directly or indirectly controls a person liable under subsection (a) or (b), every partner, officer, or director of such a person, every person occupying a similar status or performing similar functions, every employee of such a person who materially aids in the act or transaction, and every dealer or salesman who materially aids in the sale are also liable jointly and severally with and to the same extent as such person, unless the person who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(d) Any tender specified in this section may be made at any time before entry of judgment. Tender shall require only notice of willingness to exchange the security for the amount specified. Any notice may be given by service as in civil actions or by certified mail addressed to the last known address of the person liable.

(e) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(f) No person may sue under this section more than two years after the sale or contract of sale.

(g) (1) No purchaser may sue under this section if, before suit is commenced, the purchaser has received a written offer stating the respect in which liability under this section may have arisen and fairly advising the purchaser of his rights; offering to repurchase the security for cash payable on delivery of the security equal to the consideration paid, together with interest at six percent (6%) per year from the date of payment, less the amount of any income received on the security or, if the purchaser no longer owns the security, offering to pay the purchaser upon acceptance of the offer an amount in cash equal to the damages computed in accordance with subsection (a); and stating that the offer may be accepted by the purchaser at any time

within 30 days of its receipt; and the purchaser has failed to accept such offer in writing within the specified period.

(2) No seller may sue under this section if, before suit is commenced, the seller has received a written offer stating the respect in which liability under this section may have arisen and fairly advising the seller of his rights; offering to return the security plus the amount of any income received thereon upon payment of the consideration received, or, if the purchaser no longer owns the security, offering to pay the seller upon acceptance of the offer an amount in cash equal to the damages computed in accordance with subsection (b); and providing that the offer may be accepted by the seller at any time within 30 days of its

receipt; and the seller has failed to accept such offer in writing within the specified period.

- (3) Offers shall be in the form and contain the information the Administrator by rule prescribes. Every offer under subsection (g) shall be delivered to the offeree or sent by certified mail addressed to him at his last known address. If an offer is not performed in accordance with its terms, suit by the offeree under this section shall be permitted without regard to this subsection.

(h) No person who has made or engaged in the performance of any contract in violation of any provision of this Chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

(i) Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this Chapter or any rule or order hereunder is void.

(j) The rights and remedies provided by this Chapter are in addition to any other rights or remedies that may exist at law or in equity, but this Chapter does not create any cause of action not specified in this section or Section 78-16(e).

“§ 78-26. *Criminal penalties.*—(a) Any person who willfully violates any provision of this Chapter except Section 78-4, or who willfully violates any rule or order under this act, or who willfully violates Section 78-4 knowing the statement made to be false or misleading in any material respect, shall upon conviction be fined not more than five thousand dollars (\$5,000) or imprisoned in the State prison not more than five years, or both; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order.

(b) The Administrator may refer such evidence as is available concerning violations of this Chapter or of any rule or order hereunder to the Attorney General or the proper district solicitor, who may, with or without such a reference, institute the appropriate criminal proceedings under this Chapter.

(c) Nothing in this Chapter limits the power of the State to punish any person for any conduct which constitutes a crime by statute or at common law.

“Article 8.

“Miscellaneous Provisions.

“§ 78-27. *Scope of the act and service of process.*—(a) Sections 78-3, 78-5, 78-9, 78-15(a), and 78-25 apply to persons who sell or offer to sell when (1) an offer to sell is made in this State, or (2) an offer to buy is made and accepted in this State.

(b) Sections 78-3, 78-5, and 78-15(a) apply to persons who buy or offer to buy when (1) an offer to buy is made in this State, or (2) an offer to sell is made and accepted in this State.

(c) For the purpose of this section, an offer to sell or to buy is made in this State, whether or not either party is then present in this State, when the offer (1) originates from this State or (2) is directed by the offeror to this State and received at the place to which it is directed (or at any post office in this State in the case of a mailed offer).

(d) For the purpose of this section, an offer to buy or to sell is accepted in this State when acceptance (1) is communicated to the offeror in this State and (2)

has not previously been communicated to the offeror, orally, or in writing, outside this State; and acceptance is communicated to the offeror in this State, whether or not either party is then present in this State when the offeree directs it to the offeror in this State reasonably believing the offeror to be in this State and it is received at the place to which it is directed (or at any post office in this State in the case of a mailed acceptance).

(e) An offer to sell or to buy is not made in this State when (1) the publisher circulates or there is circulated on his behalf in this State any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this State, or which is published in this State but has had more than two-thirds of its circulation outside this State during the past 12 months, or (2) a radio or television program originating outside this State is received in this State.

(f) Every applicant for registration under this Chapter and every issuer who proposes to offer a security in this State through any person acting on an agency basis in the common-law sense shall file with the Administrator, in such form as he by rule prescribes, an irrevocable consent appointing the Administrator or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against him or his successor, executor or administrator which arises under this Chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the Administrator, but it is not effective unless (1) the plaintiff, who may be the Administrator in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the Administrator, and (2) the plaintiff's affidavit of compliance with the subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(g) When any person, including any nonresident of this State, engages in conduct prohibited or made actionable by this Chapter or any rule or order hereunder, and he has not filed a consent to service of process under subsection (f) and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct shall be considered equivalent to his appointment of the Administrator or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this Chapter or any rule or order hereunder with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the Administrator, and it is not effective unless (1) the plaintiff, who may be the Administrator in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(h) When process is served under this section, the court, or the Administrator in a proceeding before him, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

(i) Interest charged by a broker or dealer registered under the Securities Exchange Act of 1934, as amended, or registered under this Chapter, as now or hereafter amended, on a debit balance in an account for a customer, shall be exempt from the provisions of Chapter 24 of the North Carolina General Statutes if such debit balance is payable at will without penalty and is secured by securities as defined in the Uniform Commercial Code, Article 8. Investment Securities, G.S. 25-8-101 through G.S. 25-8-406.

“§ 78-28. *Statutory policy.*—This Chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation and administration of this Chapter with the related federal regulation.

“§ 78-29. *Severability of provisions.*—If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

“§ 78-30. *Repeal and saving provisions.*—(a) The Securities Law of the State of North Carolina, G.S. 78-1 through 78-24, is repealed except as saved in this section.

(b) Prior law exclusively governs all suits, actions, prosecution, or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this Chapter, except that no civil suit or action may be maintained to enforce any liability under prior law unless brought within any period of limitation which applied when the cause of action accrued and in any event within two years after the effective date of this Chapter.

(c) All effective registrations under prior law, all administrative orders relating to such registrations, and all conditions imposed upon such registrations remain in effect so long as they would have remained in effect if this Chapter had not been passed. They are considered to have been filed, entered, or imposed under this Chapter, but are governed by prior law.

(d) Prior law applies in respect to any offer or sale made within one year after the effective date of this Chapter pursuant to an offering begun in good faith before its effective date on the basis of an exemption available under prior law.

(e) Judicial review of all administrative orders as to which review proceedings have not been instituted by the effective date of this Chapter are governed by Section 78-22, except that no review proceeding may be instituted unless the petition is filed within any period of limitation which applied to a review proceeding when the order was entered and in any event within 60 days after the effective date of this Chapter.”

**Sec. 2.** This act shall become effective on April 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1064

CHAPTER 1381

AN ACT TO AUTHORIZE THE LOCATION OF GARBAGE COLLECTION CONTAINERS BY MUNICIPALITIES AND COUNTIES ON THE STATE HIGHWAY SYSTEM RIGHTS-OF-WAY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 136-18.3. *Location of garbage collection containers by counties and municipalities.*—(a) The Board of Transportation is authorized to issue permits to counties and municipalities for the location of containers on rights-of-way of State-maintained highways for the collection of garbage. Such containers may be located on highway rights-of-way only when authorized in writing by the State Highway Administrator in accordance with rules and regulations promulgated by the Board of Transportation. Such rules and regulations shall take into consideration the safety of travelers on the highway and the elimination of unsightly conditions and health hazards. Such containers shall not be located on fully controlled access highways.

(b) The provisions of G.S. 14-399, which make it a misdemeanor to place garbage on highway rights-of-way, shall not apply to persons placing garbage in containers in accordance with rules and regulations promulgated by the Board of Transportation.

(c) The written authority granted by the Board of Transportation shall be no guarantee that the State system highway rights-of-way on which the containers are authorized to be located is owned by the Board of Transportation, and the issuance of such written authority shall be granted only when the county or municipality certifies that written permission to locate the refuse container has been obtained from the owner of the underlying fee if the owner can be determined and located.

(d) Whenever any municipality or county fails to comply with the rules and regulations promulgated by the Board of Transportation or whenever they fail or refuse to comply with any order of the Board of Transportation for the removal or change in the location of a container, then the permit of such county or municipality shall be revoked. The location of such garbage containers on highway rights-of-way after such order for removal or change is unauthorized and illegal, the Board of Transportation shall have the authority to remove such unauthorized or illegal containers and charge the expense of such removal to the county or municipality failing to comply with the order of the Board of Transportation.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1213                      **CHAPTER 1382**

AN ACT TO PREVENT THE TAKING OF DEER WITH DOGS IN WAKE COUNTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-104 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“It shall be unlawful for any person to take deer with the aid of dogs in Wake County, except within the bounds of land upon which the hunter has in his possession written permission of the owner to hunt thereon, and provided also that the geographic area is designated by the North Carolina Wildlife Resources Commission as an area in which such hunting is allowed; and furthermore, it shall be unlawful to shoot at a deer from, on or across a county or State highway right-of-way.”

**Sec. 2.** Violation of this act shall be a misdemeanor punishable by a fine of not more than two hundred dollars (\$200.00) or imprisonment not to exceed 120 days.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1380                      **CHAPTER 1383**

AN ACT TO AMEND THE SOFT DRINK TAX ACT TO PROVIDE AN OPTIONAL METHOD FOR PAYING THE TAX ON SOFT DRINK SYRUPS AND POWDERS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 2B (entitled “Schedule B-B. Soft Drink Tax”), Subchapter I of Chapter 105 of the General Statutes is hereby amended by adding thereto a new G.S. 105-113.56B to read as follows:

“§ 105-113.56B. *Optional method of payment of tax.*—Notwithstanding any other provision of this Article, the excise tax levied upon powders, syrups, base products and all other items subject to the Soft Drink Tax Act other than bottled soft drinks, may be paid by distributors and wholesale dealers (both resident and nonresident) in the following manner:

Beginning with sales made on and after 1 July 1975, sales reports shall be made to the Commissioner on or before the fifteenth day of each succeeding month, accompanied by payment of the tax due. All persons paying the tax in this optional manner shall be subject to such rules and regulations as the Commissioner may prescribe, including the requirement that such persons furnish such bond as the Commissioner may deem advisable in such amount and upon such conditions as in the opinion of the Commissioner will adequately protect the State in the collection of the tax levied by this Article.”

**Sec. 2.** This act shall become effective on July 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2169

**CHAPTER 1384**

AN ACT TO AMEND G.S. 20-37.6 RELATING TO HANDICAPPED DRIVERS' AUTOMOBILE LICENSE PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-37.6 as same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by striking the letter "a" appearing in line 8 thereof immediately after the word "for" and immediately before the word "vehicle" and by adding an "s" to the word "vehicle" appearing in line 8.

**Sec. 2.** This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2174

**CHAPTER 1385**

AN ACT TO AMEND G.S. 135-63(b) TO LOWER THE AGE REQUIREMENT FOR ENTITLEMENT TO CERTAIN SURVIVOR'S BENEFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-63(b) is amended by deleting "fiftieth" in the first sentence, and inserting in lieu thereof "forty-ninth".

**Sec. 2.** This act shall be effective retroactive to January 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2177

**CHAPTER 1386**

AN ACT TO AMEND G.S. 20-77(c) AND (d) TO GIVE LANDOWNERS THE RIGHT TO SELL ABANDONED VEHICLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (c) of G.S. 20-77 is hereby amended by adding after the word "lien" on line 2 thereof, the words ", or abandoned property,".

**Sec. 2.** Subsection (d) of G.S. 20-77 is hereby amended by adding after the word "days" on line 2 thereof, the words ", or the landowners upon whose property a motor vehicle has been abandoned for more than 60 days,".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2188 CHAPTER 1387

AN ACT TO AMEND G.S. 52-8 RELATING TO THE VALIDATION OF CONTRACTS BETWEEN HUSBAND AND WIFE WHERE WIFE IS NOT PRIVATELY EXAMINED.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 52-8 is hereby amended in the 1973 Cumulative Supplement to Volume 2A of the General Statutes by striking the words and figures "June 20, 1969" and inserting in lieu thereof the words and figures "December 31, 1972".

**Sec. 2.** This act shall not affect litigation pending on the effective date hereof, nor be construed to validate any contract which is the subject of litigation pending on the effective date hereof.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 383 CHAPTER 1388

AN ACT TO AMEND G.S. 14-163 AND G.S. 14-366 SO THAT THE DEATH DUE TO WILFUL POISONING OF LIVESTOCK WILL CONSTITUTE A FELONY PUNISHABLE UP TO FIVE YEARS IN PRISON AND/OR A FINE IN THE DISCRETION OF THE COURT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-163 is hereby rewritten to read as follows:

"§ 14-163. *Poisoning livestock.*—If any person shall wilfully and unlawfully poison any horse, mule, hog, sheep or other livestock, the property of another, such person shall be guilty of a felony punishable by imprisonment for not more than five years or by a fine in the discretion of the court, or both."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 830 CHAPTER 1389

AN ACT TO AMEND G.S. 20-66 PERTAINING TO ANNUAL MOTOR VEHICLE REGISTRATION TO PROVIDE FOR SEMI-PERMANENT REGISTRATION PLATES AND ANNUAL ISSUANCE OF SUITABLE STICKERS, TABS OR DEVICES FOR RENEWAL OF REGISTRATION IN LIEU OF NEW REGISTRATION PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-66 is hereby amended and rewritten to read as follows:

"§ 20-66. *Renewal of registration; semi-permanent plates issued; renewal sticker annually.*—(a) Application for renewal of a vehicle registration shall be made by the owner upon proper application and by payment of the registration fee for such vehicle, as provided by law. The Department may receive and grant applications for renewal of registration at any time prior to expiration of registration.

(b) For the registration period beginning January 1, 1975, the Department, upon proper application for renewal of registration for private passenger motor vehicles, shall issue a new registration plate and registration card. For the registration period beginning January 1, 1976, and all subsequent registration periods, the Department, upon application for renewal of registration, shall, in lieu of a new registration plate, issue one or more stickers, tabs or other suitable devices denoting the registration period for which issued; provided that for the registration periods beginning January 1, 1978, and thereafter, the Department may, as it deems advisable in the discretion of the Commissioner, issue new registration plates together with such stickers, tabs or other devices; provided further, the provisions of this subsection shall not apply to special issue plates, including but not limited to official plates, legislator plates, horseless carriage plates, personalized registered plates, civil air patrol plates, amateur radio operator plates, national guard plates, and handicapped person plates.

(c) Stickers, tabs or other devices issued hereunder shall be displayed as prescribed by the Commissioner. Except where the physical differences between the stickers, tabs, or devices and registration plates by their nature render any provision of this Chapter inapplicable, all provisions of this Chapter relating to registration plates shall apply to stickers, tabs or devices.

(d) The Department may also provide for the issuance of license plates for motor vehicles with the dates of expiration thereof to vary from month to month so as to approximately equalize the number that expire during the year.”

**Sec. 2.** G.S. 20-66.1 and all other laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 871

**CHAPTER 1390**

**AN ACT TO AMEND CHAPTER 93A OF THE GENERAL STATUTES RELATING TO REAL ESTATE BROKERS AND SALESMEN.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 93A-4(a), as the same appears in the 1971 Cumulative Supplement to Volume 2C of the General Statutes, is amended by striking out all of the third sentence, which begins on line 6, and inserting in lieu thereof:

“Each applicant for a license as a real estate broker shall have been actively engaged as a licensed real estate salesman in this State for at least 12 months prior to making application for a license as a real estate broker, or shall furnish evidence satisfactory to the Board of experience in real estate transactions which the Board shall find equivalent to such 12 months experience as a licensed real estate salesman, or shall furnish evidence satisfactory to the Board of completion of 30 classroom hours of such courses of education in real estate subjects at a school approved by the Board as the Board shall by regulation prescribe. Each applicant for a license as a real estate salesman shall furnish evidence satisfactory to the Board of completion of 30 classroom hours of such courses of education in real estate subjects at a school approved by the Board as the Board shall by regulation prescribe or shall furnish evidence satisfactory to the Board of experience in real estate transactions which the Board shall find equivalent to such real estate education.”

**Sec. 2.** This amendment shall become effective September 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1269                      CHAPTER 1391**

**AN ACT TO BAR THE DEFENSE OF FAILURE TO RENDER TIMELY PROOF OF LOSS ON FIRE INSURANCE POLICIES UPON THE SHOWING OF GOOD CAUSE AND LACK OF SUBSTANTIAL HARM TO INSURER.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 19 of Chapter 58 of the North Carolina General Statutes is hereby amended by adding thereto a new section to be entitled Section 58-180.2 and to read as follows:

“§ 58-180.2. *Bar to defense of failure to render timely proof of loss.*—In any action brought to enforce an insurance policy subject to the provisions of this Article, any party claiming benefit under the policy may reply to the pleading of any other party against whom liability is sought which asserts as a defense, the failure to render timely proof of loss as required by the terms of the policy that such failure was for good cause and that the failure to render timely proof of loss has not substantially harmed the party against whom liability is sought in his ability to defend. The issues raised by such reply shall be determined by the jury if jury trial has been demanded.”

**Sec. 2.** This act shall become effective upon ratification and shall not apply to pending litigation or disputes, nor any claim based upon a loss arising prior to ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1304                      CHAPTER 1392**

**AN ACT TO REGULATE UNFAIR USE OF THE WORD WHOLESALE AND SIMILAR TERMS IN MERCHANDISING.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 75 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 75-29. *Unfair and deceptive trade names.*—(a) No person, firm or corporation shall advertise the sale of its merchandise using the term ‘wholesale’ with regard to its sale prices, except as such word may appear in the company or firm name, unless such advertised sale or sales is, or are, to a customer or customers having a Certificate of Resale issued pursuant to G.S. 105-164.28 and recorded as required by G.S. 105-164.25 or unless the wholesale price is established by an independent agency not engaged in the manufacture, distribution or sale of such merchandise.

No person, firm or corporation shall utilize in any commercial transaction a company or firm name which contains the word ‘wholesale’ unless such person, firm or corporation is engaged principally in sales at wholesale as defined in G.S. 105-164.3. For the purposes of determining whether sales are made principally at wholesale or retail, all sales to employees of any such person, firm or corporation, all sales to organizations subject to refunds pursuant to G.S.

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105-164.14, and all exempt sales pursuant to G.S. 105-164.13 shall be considered sales at wholesale. Sales of merchandise for delivery by the seller to the purchaser at a location other than the seller's place of business shall be considered sales at wholesale for the purposes of this act.

(b) The violation of any provision of this section shall be considered an unfair trade practice, as prohibited by G.S. 75-1.1."

**Sec. 2.** This act shall not apply to the sales of farm products, fertilizers, insecticides, pesticides or petroleum.

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## H. B. 1488                      CHAPTER 1393

### AN ACT RESTRICTING THE ABANDONMENT OF SERVICE BY WATER AND SEWER UTILITY SYSTEMS WITHOUT PRIOR COMMISSION APPROVAL.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 118 of Chapter 62 of the General Statutes of North Carolina is hereby amended by designating the present G.S. 62-118 as paragraph (a) under G.S. 62-118 and by adding new paragraphs (b) and (c) as follows:

"(b) If any person or corporation furnishing water or sewer utility service under this Chapter shall abandon such service without the prior consent of the Commission, and the Commission subsequently finds that such abandonment of service causes an emergency to exist, the Commission may, unless the owner or operator of the affected system consents, apply in accordance with G.S. 1A-1, Rule 65, to the resident Superior Court Judge of any judicial district where such person or corporation operates, or to any Superior Court Judge holding court in such judicial district, for an order restricting the lands, facilities and rights-of-way used in furnishing said water or sewer utility service to continued use in furnishing said service during the period of the emergency. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof. The court shall have jurisdiction to restrict the lands, facilities, and rights-of-way to continued use in furnishing said water or sewer utility service by appropriate order restraining their being placed to other use, or restraining their being prevented from continued use in furnishing said water or sewer utility service, by any person, corporation, or their representatives. The court may, in its discretion, appoint an emergency operator to assure the continued operation of such water or sewer utility service. The court shall have jurisdiction to require that reasonable compensation be paid to the owner, operator or other party entitled thereto for the use of any lands, facilities, and rights-of-way which are so restricted to continued use for furnishing water or sewer utility service during the period of the emergency, and it may require the emergency operator of said lands, facilities, and rights-of-way to post bond in an amount required by the court. In no event shall such compensation, for each month awarded, exceed the net average monthly income of the utility for the 12 month period immediately preceding the order restricting use.

(c) Whenever the Commission, upon complaint or investigation upon its own motion, finds that the facilities being used to furnish water or sewer utility

service are inadequate to such an extent that an emergency (as defined in G.S. 62-118(b) above) exists, and further finds that there is no reasonable probability of the owner or operator of such utility obtaining the capital necessary to improve or replace the facilities from sources other than the customers, the Commission shall have the power, after notice and hearing, to authorize by order that such service be abandoned or reduced to those customers who are unwilling or unable to advance their fair share of the capital necessary for such improvements. The amount of capital to be advanced by each customer shall be subject to approval by the Commission, and shall be advanced under such conditions as will enable each customer to retain a proprietary interest in the system to the extent of the capital so advanced. The remedy prescribed in this paragraph is in addition to other remedies prescribed by law.”

**Sec. 2.** Except as herein amended, the provisions of Chapter 62 of the General Statutes of North Carolina shall remain in full force and effect. To the extent that other laws or clauses of laws are in conflict with the provisions of this act, such laws and clauses are, to that extent, hereby repealed.

**Sec. 3.** This act shall become effective on October 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## H. B. 1873 CHAPTER 1394

### AN ACT TO PROHIBIT DISCRIMINATION AGAINST WOMEN IN EXTENSION OF CREDIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** (a) No married woman shall be denied credit in her own name if her uncommingled earnings, separate property or other assets are such that a man possessing the same amount of uncommingled earnings, separate property or other assets would receive credit.

(b) No unmarried woman shall be denied credit in her own name if her property, earnings or other assets are such that a man possessing the same amount of property, earnings or other assets would receive credit.

(c) For the purposes of this section, “credit” means the obtaining of money, property, labor or services on a deferred-payment basis.

**Sec. 2.** A credit reporting agency shall, upon written request of a married person, identify within any report delivered by the agency, both the separate credit history of each spouse and the credit history of their joint accounts, if such information is on file with the credit reporting agency.

**Sec. 3.** (a) A married or unmarried woman denied credit in violation of this act shall have a right of action on account of such violation in which she shall be entitled to actual damages, and reasonable attorneys fees in the discretion of the court to be taxed as part of the cost.

(b) Violations of this act may be enjoined by action of the Attorney General brought in behalf of the State pursuant to authority granted in G.S. 114-2.

**Sec. 4.** Nothing contained herein shall be construed to deprive any credit grantor of his right to deny credit or limit its terms based upon its evaluation of the applicant’s capability or willingness to repay, or to require any credit grantor to give preferential treatment to any applicant because of sex or marital status.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1916

CHAPTER 1395

AN ACT TO AMEND G.S. 20-81.1 RELATING TO SPECIAL PLATES FOR AMATEUR AND CLASS D CITIZEN RADIO STATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-81.1 is hereby rewritten to read as follows:

“§ 20-81.1. *Special plates for amateur radio operators.*—(a) Every owner of a motor vehicle which is primarily used for pleasure or communication purposes who holds an unrevoked and unexpired amateur radio license of a renewable nature, issued by the Federal Communications Commission, shall, upon payment of registration and licensing fees for such vehicle as required by law and an additional fee of four dollars (\$4.00), be issued plates of similar size and design as the regular registration plates provided for by G.S. 20-63 or other provisions of law, upon which shall be inscribed, in lieu of the usual registration number, the official amateur radio call letters of such persons as assigned by the Federal Communications Commission.

(b) Application for special registration plates shall be made on forms which shall be provided by the Department of Motor Vehicles and shall contain proof satisfactory to the Department that the applicant holds an unrevoked and unexpired official amateur radio license and shall state the call letters which have been assigned to the applicant. Applications must be filed prior to 60 days before the day when regular registration plates for the year are made available to motor vehicle owners.

(c) Special registration plates issued pursuant to this section shall be replaced annually to the same extent as regular registration plates are replaced. These plates shall be valid during the year for which issued. If the amateur radio license of a person holding a special plate issued pursuant to this section shall be cancelled or rescinded by the Federal Communications Commission, such person shall immediately return the special plates to the Department of Motor Vehicles.

(d) The provisions of this section shall apply to calendar years beginning after December 31, 1974. The Department of Motor Vehicles is authorized to, and shall, make such provisions prior to January 1, 1975, as are necessary for the issuance for the year 1975 of the special plates provided for in this section.

(e) The revenue derived from the additional fee for the amateur radio plates shall be placed in a separate fund designated the ‘Amateur Radio Registration Plate Fund’. After deducting the cost of the plates, plus budgetary requirements for handling and issuance to be determined by the Commissioner of Motor Vehicles, any remaining moneys derived from the additional fee for such plates shall be periodically transferred to the State Highway Commission as provided in G.S. 20-81.3(c)(2).”

**Sec. 2.** There is hereby enacted a new section to be designated G.S. 20-81.6, to read as follows:

“§ 20-81.6. *Special plates for Class D citizens radio station operators.*—(a) Every owner of a motor vehicle which is primarily used for pleasure or communication purposes who holds an unrevoked and unexpired Class D citizens radio station license of a renewable nature, issued by the Federal

Communications Commission, shall, upon payment of registration and licensing fees for such vehicle as required by law and an additional fee of ten dollars (\$10.00), be issued plates of similar size and design as the regular registration plates provided for by G.S. 20-63 or other provisions of law, upon which shall be inscribed, in lieu of the usual registration number, the official Class D citizens radio station call letters of such persons as assigned by the Federal Communications Commission; provided, however, that in addition to the payment of registration and licensing fees, a fee of ten dollars (\$10.00) shall be required to purchase a Class D citizens radio station license.

(b) Application for special registration plates shall be made on forms which shall be provided by the Department of Motor Vehicles and shall contain proof satisfactory to the Department that the applicant holds an unrevoked and unexpired official Class D citizens radio station license and shall state the call letters which have been assigned to the applicant. Applications must be filed prior to 60 days before the day when regular registration plates for the year are made available to motor vehicle owners.

(c) Special registration plates issued pursuant to this section shall be replaced annually to the same extent as regular registration plates are replaced. These plates shall be valid during the year for which issued. If the Class D citizens radio station license of a person holding a special plate issued pursuant to this section shall be cancelled or rescinded by the Federal Communications Commission, such person shall immediately return the special plates to the Department of Motor Vehicles.

(d) The provisions of this section shall apply to calendar years beginning after December 31, 1974. The Department of Motor Vehicles is authorized to, and shall, make such provisions prior to January 1, 1975, as are necessary for the issuance for the year 1975 of the special plates provided for in this section.

(e) The revenue derived from the additional fee for the Class D citizens radio plates shall be placed in a separate fund designated the 'Class D Citizens Radio Registration Plate Fund'. After deducting the cost of the plates, plus budgetary requirements for handling and issuance to be determined by the Commissioner of Motor Vehicles, any remaining moneys derived from the additional fee for such plates shall be periodically transferred to the Board of Transportation as provided in G.S. 20-81.3(c)(2)."

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 2049                      CHAPTER 1396**

**AN ACT TO AMEND G.S. 18A-15 RELATING TO THE POWER AND AUTHORITY OF THE NORTH CAROLINA BOARD OF ALCOHOLIC CONTROL.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-15 is amended by adding at the end thereof:

"(16) The Board is authorized to dispose of damaged liquors belonging to the Board by selling it to public or private hospitals to be used only for medicinal purposes, or by sale to military installations or by destroying such liquors as the Board may deem best. Sale shall be by:

(a) Advertisement for sealed bids;

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- (b) Negotiated offer, advertisement, and upset bids;
- (c) Public auction; or
- (d) Exchange.

Complete detailed records of such disposal shall be maintained by the Board showing the brand, amount and disposition. Any funds derived from such liquors shall be paid into the warehouse bailment fund."

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## H. B. 2108

## CHAPTER 1397

### AN ACT RELATING TO COMPENSATION AND ALLOWANCES OF MEMBERS OF STATE BOARDS, COMMISSIONS, COMMITTEES, AND COUNCILS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-5 is rewritten to read as follows:

"§ 138-5. *Per diem and allowances of State boards, etc.*—(a) Except as provided in subsection (c) of this section, members of State boards, commissions, committees and councils which operate from funds deposited with the State Treasurer shall be compensated for their services at the following rates:

- (1) Compensation at the rate of fifteen dollars (\$15.00) per diem for each day of service;
- (2) A subsistence allowance of
  - i. fifteen dollars (\$15.00) per day for each day of service when the member did not spend the night away from his home,
  - ii. thirty-five dollars (\$35.00) per day for each day of service when the member spent the night away from his home;
- (3) Reimbursement of travel expenses at the rates allowed to State officers and employees by subparagraphs (1) and (2) of G.S. 138-6(a).
- (4) For convention registration fees, the actual amount expended, as shown by receipt.

(b) Except as provided in subsection (c) of this section, the schedules of per diem, subsistence, and travel allowances established in this section shall apply to members of all State boards, commissions, committees and councils which operate from funds deposited with the State Treasurer, excluding those boards, commissions, committees and councils the members of which are now serving without compensation and excluding occupational licensing boards as defined in G.S. 93B-1; and all special statutory provisions relating to per diem, subsistence, and travel allowances are hereby amended to conform to this section.

(c) Members of the Advisory Budget Commission shall receive no per diem compensation for their services, but shall receive the same subsistence and travel allowances as are provided for members of the General Assembly for services on interim legislative committees.

(d) The subsistence allowances provided in this section shall be paid without requiring the claimant to file any vouchers covering actual expenditures for meals or lodging.

(e) Out-of-state travel on official business by members of State boards, commissions, committees and councils which operate from funds deposited with

the State Treasurer shall be reimbursed only upon authorization obtained in the manner prescribed by the Director of the Budget.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1237                      CHAPTER 1398**

**AN ACT TO AMEND G.S. 86-15 RELATING TO THE FEES OF THE STATE BOARD OF BARBER EXAMINERS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 86-15, as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes is amended as follows:

(a) By striking the figure "\$10.00" in line 3 thereof and substituting in lieu thereof "\$12.50".

(b) By striking the figure "\$10.00" in line 4 thereof and substituting in lieu thereof "\$12.50".

(c) By striking the figure "\$10.00" in line 5 thereof and substituting in lieu thereof "\$12.50".

(d) By striking the figure "\$20.00" in line 6 thereof and substituting in lieu thereof "\$25.00".

(e) By striking the figure "\$20.00" in line 7 thereof and substituting in lieu thereof "\$25.00".

**Sec. 2.** This act shall become effective June 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1356                      CHAPTER 1399**

**AN ACT AMENDING CHAPTER 954 OF THE 1965 SESSION LAWS, SO AS TO PROVIDE THAT HALIFAX COUNTY SHALL BE GOVERNED BY THE PROVISIONS OF G.S. 14-269.1 RELATING TO THE CONFISCATION OF FIREARMS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Amend section 2-1/2 of Chapter 954 of the 1965 Session Laws by striking in the third line thereof the word "Halifax".

**Sec. 2.** Repeal Chapter 1213 of the 1963 Session Laws.

**Sec. 3.** Halifax County from the date of ratification shall be governed by the provision of G.S. 14-269.1 relating to the confiscation and disposition of deadly weapons.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

CHAPTER 1400 Session Laws—1973

S. B. 1472

CHAPTER 1400

AN ACT TO AMEND CHAPTER 819 OF THE 1957 SESSION LAWS, AS AMENDED BY CHAPTER 456 OF THE 1971 SESSION LAWS, RELATING TO THE DIVISION OF ABC PROFITS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 6(a) of Chapter 819 of the 1957 Session Laws, as amended by Chapter 456 of the 1971 Session Laws, is hereby rewritten to read as follows:

“(a) Ten percent (10%) to the Elementary School located in Southport or serving Southport; ten percent (10%) to the Middle School serving Southport; ten percent (10%) to the South Brunswick High School. Such amounts shall supplement and not supplant the amount normally budgeted by the governing bodies of Brunswick County for this purpose.”

**Sec. 2.** Subsection (b) of Section 6 of Chapter 819 of the 1957 Session Laws, as amended by Chapter 456 of the 1971 Session Laws, is hereby deleted and subsections (c), (d), (e), (f) and (g) renumbered as subsections (b), (c), (d), (e) and (f) accordingly.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1488

CHAPTER 1401

AN ACT TO AMEND CHAPTER 856 OF THE 1973 SESSION LAWS TO EXEMPT COMMERCIAL FISHERMEN FROM THE PROHIBITIONS OF G.S. 160A-308 AS THE SAME RELATES TO REGULATION OF DUNE BUGGIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 856 of the 1973 Session Laws is hereby amended to exempt commercial fishermen from the prohibitions of G.S. 160A-308 by adding the following paragraph at the end thereof:

“Provided, a municipality shall not prohibit the use of such specified vehicles from the foreshore, beach strand and barrier dune system by commercial fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by municipalities under this section.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1490

**CHAPTER 1402**

AN ACT TO AMEND G.S. 47-48 TO CHANGE THE APPLICABLE DATE THEREIN.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 47-48, as it appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes of North Carolina, is amended in the last sentence by deleting the word, figures, and punctuation "January 1, 1971" and inserting in lieu thereof the word, figures, and punctuation "April 1, 1974".

**Sec. 2.** This act shall not apply to pending litigation.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1494

**CHAPTER 1403**

AN ACT TO AMEND CHAPTER 1143 OF THE 1973 SESSION LAWS TO DELETE CERTAIN DESIGN REQUIREMENTS OF MOTOR ASSISTED BICYCLES THAT ARE EXEMPT FROM THE TITLE AND REGISTRATION PROVISIONS OF CHAPTER 20 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1143 of the 1973 Session Laws is hereby amended after the words "one brake horsepower or less" and before the words "incapable of exceeding 20 miles per hour" by deleting the following words: "and driven by friction or belt, not gears or chain".

**Sec. 2.** Chapter 1143 of the 1973 Session Laws is hereby amended after the words "less than one brake horsepower" and before the words "which produce only ordinary pedaling speeds" by deleting the following words: "transmitted by friction or belt and not by gear or chain,".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 975

**CHAPTER 1404**

AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE MOUNTAIN AREA MANAGEMENT ACT OF 1974.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Natural and Economic Resources the sum of twenty thousand dollars (\$20,000) for the purpose of providing funds for demonstration grants for local and regional planning in the counties of the Mountain area, as defined in Senate Bill Number 973.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 899

**CHAPTER 1405**

AN ACT RELATING TO THE PURCHASE AND DEVELOPMENT OF PARK LANDS, RECREATION AREAS AND OTHER LANDS IN THEIR NATURAL UNALTERED CONDITION AND TO THE ACQUISITION OF OTHER LANDS AND PROPERTY; THE NORTH CAROLINA LAND CONSERVANCY CORPORATION SHALL HAVE THE POWER TO BUY, SELL, CONVEY, MORTGAGE OR LEASE ANY INTEREST IN SUCH PROPERTY.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby created a body politic and corporate to be known as the "North Carolina Land Conservancy Corporation".

**Sec. 2.** Legislative Findings and Purposes. The General Assembly finds and declares that there is a public purpose and interest in acquiring and developing certain lands of the State in their natural and unaltered condition which are of value to the citizens of the State as sources of recreation, solitude, and as reminders of our natural and cultural heritage and in acquiring other lands and property, which may be of great benefit to State government and to the public at large.

The General Assembly further finds that the State lacks a mechanism that permits maximum flexibility in land acquisition. Thus, the State is often unable to purchase land at public auction, foreclosures, estate settlements, commercial offerings, private offerings, or other types of forced or rapid sale. The General Assembly also finds that the State lacks a mechanism that will permit it to move quickly when desirable tracts become available. Such delays in acquiring valuable land mean that when lands are ultimately purchased the price is generally greater than the initial asking price.

Therefore, the General Assembly declares that a mechanism to accomplish the aforestated public purpose should be established and sanctioned by the General Assembly of North Carolina and that such action is in the public interest.

**Sec. 3.** Board of Trustees. The Board of Trustees of the North Carolina Land Conservancy Corporation, hereinafter referred to as the Trustees, shall be composed of and governed by nine members. The Governor shall appoint five Trustees of the Corporation who shall be residents of the State and who may hold other public offices. The Speaker of the House of Representatives shall appoint two Trustees of the Corporation from the House of Representatives, and the Lieutenant Governor shall appoint two Trustees of the Corporation from the Senate, who shall serve as Trustees during their term of office, or until their successor is duly appointed and qualified. The State Treasurer, the Secretary of Administration, and the Secretary of Natural and Economic Resources, or their designees, shall be ex-officio non-voting Trustees.

Insofar as possible the voting Trustees should come from different regions of the State. The Governor shall appoint one Trustee of the Corporation for a one-year term, two of the Trustees of the Corporation for a two-year term, and two of the Trustees of the Corporation for a three-year term, as designated by the Governor, and until their successors shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of four years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any

member of the Board of Trustees shall be eligible for reappointment. Each member of the Board of Trustees appointed by the Governor may be removed by the Governor for misfeasance, malfeasance or wilful neglect of duty after reasonable notice and a public hearing, unless the same are in writing expressly waived. Each Trustee of the Corporation appointed by the Governor before entering upon his duty shall take an oath to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the Secretary of State. The Governor shall designate a member of the Board of Trustees to serve as Chairman. The term of the Chairman of the Board of Trustees shall extend for a period of one year. The Trustees shall annually elect one of its members as Vice Chairman. The Secretary of Administration, or his designee, shall serve as Executive Director and Secretary to the Corporation.

Five members of the Board of Trustees shall constitute a quorum and the affirmative vote of a majority of the members present at a duly called meeting shall be necessary for any action taken by the Trustees, except adjournment. Trustees shall receive no compensation for their services, but shall be entitled to receive, from the funds of the Corporation, for attendance at meetings of the Corporation or any committee thereof, and for other services for the Corporation, reimbursement for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and, only as to members appointed by the Governor, such per diem as is allowed by law for members of other State boards, commissions, and committees.

**Sec. 4.** The Executive Director. The Executive Director shall administer, manage, and direct the affairs and business of the Corporation, subject to the policies, control, and direction of the members of the Corporation. The Secretary of the Corporation shall keep a record of the proceedings of the Corporation and shall be custodian of all books, documents, and papers filed with the Corporation, the minute book or journal of the Corporation and its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Corporation, and to give certificates under the official seal of the Corporation to the effect that such copies are true copies and all persons dealing with the Corporation may rely on such certificates. All records and documents will be subject to audit by the State Auditor.

**Sec. 5.** Powers of the Board of Trustees. The Corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, but without limitation, the foregoing powers:

- (1) to adopt an official seal and alter the same at its pleasure;
- (2) to adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (3) to maintain an office in the City of Raleigh;
- (4) to collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidence of indebtedness;
- (5) to procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;
- (6) to solicit financial support from various private sources within and without the State of North Carolina;

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(7) to make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Corporation under this act, including contracts with any firm, person, corporation, governmental agency or other entity and each and any North Carolina governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the Corporation to facilitate the purpose of the act;

(8) to receive, administer and comply with the conditions and requirements respecting any appropriation, loan, gift, grant, bond issue, or donation of any property or money;

(9) to cooperate and participate with any non-profit conservation organizations whose principal purpose is the protection and preservation of natural areas, in projects and activities of mutual interest and furtherance of the foregoing purposes and objects;

(10) to sue and be sued in its own name, plead and be impleaded;

(11) to preserve or aid in the preservation of all types of natural areas, features, objects, flora and fauna and biotic communities;

(12) to buy, own, sell, convey, assign, mortgage or lease any interest in real estate, including but not limited to fee simple interest and life estates, and personal property.

**Sec. 6.** No property may be sold to or purchased from a member of the Board of Trustees, nor from the spouse, descendant, parent, partner of a Trustee; nor from any other person of closer kin than first cousin of a Trustee; nor from any firm, corporation, partnership, trust, or other business in which a Trustee, his spouse, his descendants, his parents, his partners, or any other person of closer kin than first cousin of a Trustee, has a financial interest of whatever kind.

**Sec. 7.** The purpose of the Corporation is to acquire land for eventual use by the State of North Carolina. To this end, the Corporation shall offer to sell any assets it acquires to the State of North Carolina, and its agencies, at the same price at which such lands were purchased by the Corporation plus all reasonable and necessary expenses of acquisition.

**Sec. 8.** This Corporation is a non-profit State body corporate. The assets of the Corporation shall be the property of the State of North Carolina. No profits or assets of the Corporation shall enure to the benefit of any member of the Board of Trustees.

**Sec. 9.** The Corporation may not use appropriated State funds to purchase real property, unless the Corporation shall have first obtained the approval of the Department of Administration, and the Governor and Council of State, in the manner provided in Chapter 146 of the General Statutes of North Carolina.

**Sec. 10.** No land shall be purchased, leased, sold, assigned, or mortgaged and no options shall be taken on any land by the Corporation without the prior approval of the Council of State.

**Sec. 11.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1375 CHAPTER 1406

AN ACT TO PROVIDE THAT THE TRIBAL COUNCIL OF THE EASTERN BAND OF CHEROKEE INDIANS IN JACKSON, GRAHAM, CHEROKEE AND SWAIN COUNTIES SHALL BE ELIGIBLE FOR MEMBERSHIP IN REGIONAL PLANNING COMMISSIONS, ECONOMIC DEVELOPMENT COMMISSIONS AND REGIONAL COUNCILS OF GOVERNMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** The Tribal Council for the Eastern Band of Cherokee Indians located on the lands presently held in trust for their use and benefit in Jackson, Graham, Cherokee and Swain Counties shall be considered a local governmental unit for purposes of membership in a Regional Planning Commission as set out in Chapter 153A, Article 19 of the General Statutes; and for purposes of membership in an Economic Development Commission as set out in Chapter 158, Article 2, of the General Statutes; and for purposes of membership in a Regional Council of Governments as set out in Chapter 160A, Article 20 of the General Statutes.

**Sec. 2.** This act shall apply to the following counties: Jackson, Swain, Graham and Cherokee.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1923 CHAPTER 1407

AN ACT TO REPEAL G.S. 108-25(4) PERTAINING TO AID TO THE AGED AND DISABLED LIEN AGREEMENTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-25(4) is hereby repealed.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 981 CHAPTER 1408

AN ACT TO REWRITE GENERAL STATUTES CHAPTER 122, ARTICLE 5A (INVOLUNTARY COMMITMENT).

*The General Assembly of North Carolina enacts:*

**Section 1.** General Statutes Chapter 122, Article 5A, as set forth in 1973 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina, is rewritten to read as follows:

“Article 5A

“Involuntary Commitment

“§ 122-58.1. *Declaration of policy.*—It is the policy of the State that no person shall be committed to a mental health facility unless he is mentally ill or an inebriate and imminently dangerous to himself or others; that a commitment will be accomplished under conditions that protect the dignity and constitutional rights of the person; and that committed persons will be discharged as soon as a less restrictive mode of treatment is appropriate.

“§ 122-58.2. *Definitions.*—As used in this Article:

(a) The words ‘inebriety’ and ‘mental illness’ have the same meaning as they are given in G.S. 122-36;

(b) ‘Law enforcement officer’ means sheriff, deputy sheriff, police officer, and State highway patrolman; and

(c) the phrase ‘dangerous to himself’ includes, but is not limited to, those mentally ill or inebriate persons who are unable to provide for their basic needs for food, clothing, or shelter.

“§ 122-58.3. *Affidavit and petition before clerk or magistrate; custody order.*—(a) Any person who has knowledge of a mentally ill or inebriate person who is imminently dangerous to himself or others may appear before a clerk or assistant or deputy clerk of superior court or a magistrate of district court and execute an affidavit to this effect, and petition the clerk or magistrate for issuance of an order to take the respondent into custody for examination by a qualified physician. The affidavit shall include the facts on which the affiant’s opinion is based. The respondent must be found in or be a resident of the same county as the clerk or magistrate.

(b) If the clerk or magistrate finds reasonable grounds to believe that the facts alleged in the affidavit are true and that the respondent is probably mentally ill or inebriate and imminently dangerous to himself or others, he shall issue an order to a law enforcement officer to take the respondent into custody for examination by a qualified physician.

(c) If the clerk or magistrate issues a custody order, he shall also make inquiry, as soon as may be and in any manner deemed reliable, as to whether the respondent is indigent within the meaning of G.S. 7A-450. A magistrate shall report the result of this inquiry to the clerk.

(d) An affiant who is a qualified physician may execute the oath to the affidavit before any official authorized to administer oaths. He is not required to appear before the clerk or magistrate for this purpose.

“§ 122-58.4. *Duties of law enforcement officer; examination by qualified physician.*—(a) Upon receipt of the custody order of the clerk or magistrate, a law enforcement officer, within 24 hours after the order is signed, shall take the respondent into custody. Immediately upon assuming custody, and in any event within 48 hours, the officer shall take the respondent to a community mental health center for an examination by a qualified physician; if a qualified physician is not available in the community mental health center, he shall take the respondent to any qualified physician locally available. If a physician is not immediately available, the officer may temporarily detain the respondent in a community mental health facility, if one is available; if such a facility is not available, he may cause the detention of the respondent, under appropriate supervision, in the respondent’s home, in a private hospital or a clinic, in a general hospital, or in a regional mental health facility, but not in a jail or other penal facility.

(b) If the affiant who obtained the custody order is a qualified physician, the examination set forth in subsection (a) is not required. In this case, the law enforcement officer shall take the respondent directly to a mental health facility described in subsection (c).

(c) The qualified physician shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. If the physician finds that the respondent is not mentally ill or an

inebriate, or is not imminently dangerous to himself or others, the law enforcement officer shall release him, and the proceedings shall be terminated. If the physician finds that the respondent is mentally ill or an inebriate, and is imminently dangerous to himself or others, the law enforcement officer shall take the respondent to a community mental health facility or public or private facility designated or licensed by the Division of Mental Health Services of the Department of Human Resources for temporary custody, observation, and treatment of mentally ill or inebriate persons pending a district court hearing. If there is no community mental health facility so designated, and if the respondent is indigent and unable to pay for his care at a private facility, the law enforcement officer shall take the respondent to a regional psychiatric facility designated by the Division of Mental Health Services for custody and treatment of the mentally ill and inebriate, and immediately notify the clerk of superior court of his actions.

(d) The findings of the qualified physician and the facts on which they are based, shall be in writing, in all cases. A copy of the findings shall be transmitted to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician shall also communicate his findings to the clerk by telephone.

“§ 122-58.5. *Duties of clerk of superior court.*—Upon receipt of a qualified physician’s finding that a respondent is mentally ill or an inebriate, and imminently dangerous to himself or others, the clerk of superior court shall, upon direction of a district court judge, assign counsel, if necessary, calendar the matter for hearing, and notify the respondent and counsel of the time and place of the hearing. Notice must be given at least 48 hours in advance, unless waived by counsel for the respondent.

“§ 122-58.6. *Treatment and release pending hearing.*—(a) Within 24 hours of arrival at a community or regional mental health facility described in G.S. 122-58.4(c), the respondent shall be examined by a qualified physician. If the qualified physician finds that the respondent is mentally ill or an inebriate, and is imminently dangerous to himself or others, he shall hold the respondent at the facility pending the district court hearing. If the qualified physician finds that the respondent is not mentally ill or inebriate, or is not imminently dangerous to himself or others, he shall release the respondent pending the district court hearing and so notify the clerk of superior court of the county from which the respondent was sent. Unless the respondent provides his own transportation, the law enforcement officer shall return the respondent to the originating county. If a respondent, so released, fails, upon proper notification, to attend the hearing, and his presence is not waived by his counsel and the court, he may be taken into custody and returned to the releasing facility by any law enforcement officer on order of the judge. Days the respondent is on release shall not be counted in computing the 10-day period in which the hearing must be held.

(b) The findings of the qualified physician and the facts on which they are based shall be in writing, in all cases. A copy of the findings shall be transmitted to the clerk of superior court by reliable and expeditious means.

(c) Pending the district court hearing, the qualified physician attending the respondent is authorized to administer to the respondent reasonable and

appropriate medication and treatment that is consistent with accepted medical standards.

“§ 122-58.7. *District court hearing.*—(a) A hearing shall be held in district court within 10 days of the day the respondent is taken into custody. Upon motion of the respondent’s counsel, sufficiently in advance to avoid movement of the respondent, continuances of not more than five days each may be granted.

(b) On order of the presiding judge, the solicitor (district attorney) shall represent the petitioner.

(c) The respondent shall be represented by counsel of his choice, or, if he is indigent within the meaning of G.S. 7A-450, or refuses to retain counsel if financially able to do so, by counsel appointed by the court.

(d) With the consent of the court, counsel may in writing waive the presence of the respondent.

(e) Certified copies of reports and findings of qualified physicians and medical records of the mental health facility are admissible in evidence, but the respondent’s right to confront and cross-examine witnesses shall not be denied.

(f) Hearings may be held in an appropriate room not used for treatment of patients at the mental health facility in which the respondent is being treated, if it is located within the judge’s judicial district, or in the judge’s chambers. A hearing shall not be held in a regular courtroom, over objection of the respondent, if in the discretion of the judge, a more suitable place is available.

(g) The hearing shall be closed to the public, unless the respondent requests otherwise.

(h) A copy of all documents admitted and, where applicable, a transcript of oral testimony considered shall be furnished by the clerk to the respondent on request. If the respondent is indigent, the transcript shall be provided at State expense.

(i) To support a commitment order, the court is required to find, by clear, cogent, and convincing evidence, that the respondent is mentally ill or inebriate, and imminently dangerous to himself or others. The court shall record the facts which support its findings.

“§ 122-58.8. *Disposition.*—(a) If the court finds that the respondent is not mentally ill or inebriate, or is not imminently dangerous to himself or others, he shall be discharged, and the facility in which he was last a patient so notified.

(b) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and is imminently dangerous to himself or others, it may order treatment, inpatient or outpatient, for a period not in excess of 90 days, at a mental health facility, public or private, designated or licensed by the Division of Mental Health Services. Treatment at a private facility shall be at the expense of the respondent to the extent that such charges are not disposed of by contract between the county and the private facility.

(c) If the court orders outpatient treatment, and the respondent fails to adhere to the prescribed outpatient treatment program, on report of the failure by the chief of medical services of the treatment facility, the court, upon notice to the respondent and his counsel, may order a supplemental hearing, and further order inpatient treatment in a designated or licensed facility for a period of not more than 90 days running from the date of the order.

“§ 122-58.9. *Appeal.*—The judgment of the district court is final. Appeal may be had to the Court of Appeals, on the record, as in civil cases. Appeal does not

stay commitment, unless so ordered by the Court of Appeals. The Attorney General shall represent the petitioner on appeal.

“§ 122-58.10. *Duty of assigned counsel; discharge.*—Counsel assigned to represent an indigent respondent at the initial district court hearing is also responsible for perfecting and concluding an appeal, if there is one. Upon completion of an appeal, if any, or upon transfer of the respondent to a regional mental health facility, if there is no appeal, assigned counsel is discharged. If the respondent is committed to a community mental health facility, assigned counsel remains responsible for his representation until discharged by order of district court, or until the respondent is unconditionally discharged from the community facility.

“§ 122-58.11. *Rehearings.*—(a) Fifteen days before the end of the initial treatment period, if the chief of medical services of the inpatient facility determines that treatment of a respondent beyond the initial period will be necessary, he shall so notify the clerk of superior court of the county in which the facility is located. The clerk, at least 10 days before the end of the initial period, on order of a district court judge of the judicial district in which the facility is located, shall calendar the rehearing, shall notify the respondent and his counsel of the time and place of the rehearing.

(b) Rehearings shall be held at the facility in which the respondent is receiving treatment. The judge shall be a judge of the district court of the judicial district in which the facility is located, or a district court judge temporarily assigned to that district.

(c) Rehearings are governed by the same procedures as initial hearings, and the respondent has the same rights he had at the initial hearing, including the right to appeal.

(d) If the court finds that the respondent is not in need of continued hospitalization, or of outpatient care, it shall unconditionally discharge him. A copy of the discharge order shall be furnished the clerk of superior court of the county of original commitment and the facility from which the respondent is being discharged. If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and imminently dangerous to himself or others, and in need of continued hospitalization, or, in the alternative, of outpatient care, it may order hospitalization (or outpatient care, as the case may be) for an additional period not in excess of 180 days.

(e) Fifteen days before the end of the second commitment period, and annually thereafter, the chief of medical services of the facility shall review and evaluate the condition of each respondent, and if he determines that a respondent is in continued need of hospitalization or, in the alternative, of outpatient treatment, shall so notify the respondent, his counsel, and the clerk of superior court of the county in which the facility is located. Unless the respondent through his counsel files with the clerk a written waiver of his right to a rehearing, the clerk, on order of a district court judge of the district in which the facility is located, shall calendar a rehearing for not later than the end of the current commitment period. The procedures and standards for the rehearing are the same as for the first rehearing. Any recommitment ordered shall be for only such period of time as continued treatment is deemed necessary by the chief of medical services of the treatment facility, but in no event longer than one year.

(f) There are no rehearings for outpatients.

“§ 122-58.12. *Counsel for indigents at rehearings.*—(a) The senior regular resident superior court judge of a judicial district in which a regional psychiatric facility for the care and treatment of the mentally ill and inebriate is located shall appoint an attorney licensed to practice in North Carolina as special counsel for the mentally ill and inebriate who are indigent. Such special counsel shall serve at the pleasure of the appointing judge, shall not privately practice law, and shall receive annual compensation within the salary range for assistant solicitors, as fixed by the Administrative Officer of the Courts. It shall be the duty of the special counsel to represent at rehearings under this Article all indigent respondents committed to the facility by a district court judge for mental illness or inebriety, and to represent all indigent respondents who, after a rehearing, appeal to the Court of Appeals. The initial determination of indigency shall be made by the special counsel in accordance with G.S. 7A-450(a), but is subject to redetermination by the presiding judge.

(b) The regional facility shall provide suitable office space for the counsel to meet privately with respondents. The Administrative Office of the Courts shall provide secretarial and clerical service, and necessary equipment and supplies for his office.

(c) In the event of a vacancy in the office of special counsel, or his incapacity, or a conflict of interest, counsel for indigents at rehearings may be assigned by a district judge of the district from among those members of the bar who maintain law offices within 20 miles of the regional facility. Counsel may also be so assigned when, in the opinion of the Administrative Officer of the Courts, the volume of cases warrants.

“§ 122-58.13. *Release and conditional release.*—The chief of medical services of a public or private mental health facility shall discharge a committed respondent unconditionally at any time he determines that the patient is no longer in need of hospitalization. He may also release a respondent conditionally, for periods not in excess of 30 days, on specified medically appropriate conditions. Violation of the conditions is grounds for return to the releasing facility. A law enforcement officer, on written request of the chief of medical services of the facility, shall take a conditional releasee into custody and return him to the facility. Notice of discharge and of conditional release shall be furnished the clerk of superior court of the county of commitment, and the county in which the facility is located.

“§ 122-58.14. *Transportation.*—(a) Transportation of a respondent to or from a clerk or magistrate, a qualified physician, a community mental health facility, and a hearing shall be provided by the city or county, which said transportation may be by city or county owned vehicles, or by private ambulance by contract with the city or county. If the respondent is a resident of a city, the city has the duty to provide the transportation; if the respondent is a resident of a county, outside of city limits, the county has the duty to provide transportation; if a respondent resides outside of the county, the city (or county, as the case may be) in which he is taken into custody has the duty to provide transportation; but cities and counties may contract with each other to accomplish this function. Transportation to or from a regional hospital outside the county, for any purpose, is the responsibility of the county, pursuant to G.S. 122-42. If the respondent is not indigent, the city or county is entitled to recover the costs of transportation from the respondent. A respondent being discharged from a facility may elect to use his own transportation.

(b) To the extent feasible, law enforcement officers transporting respondents shall dress in plain clothes, and shall travel in unmarked vehicles.

“§ 122-58.15. *Commitment of eligible veterans to Veterans Administration facility.*—References in this Article to community or regional mental health facilities shall be deemed to include any facility operated by the Veterans Administration for inpatient care and treatment of mentally ill or inebriate veterans. Such a facility may be used for temporary detention pending a district court hearing, and for commitment subsequent to such a hearing. Eligibility of the veteran-respondent for treatment at a Veterans Administration facility, and the availability of space therein, shall be determined in all cases prior to sending or committing a veteran-respondent thereto by filing with the court a certificate of eligibility from the Veterans Administration.

Rehearings for veteran-respondents committed to a Veterans Administration facility shall be held at the facility or at the county courthouse in the county in which the facility is located, and counsel for rehearings shall be assigned from among the members of the bar of the same county.

“§ 122-58.16. *Use of community and area mental health facilities.*—Directors of community mental health facilities and area mental health programs shall submit for approval by the Division of Mental Health Services, plans consistent with this Article, for maximum utilization of community and area mental health facilities. Such plans shall be formulated after consultation with local court officials and the local medical society.

“§ 122-58.17. *Respondents committed under prior law.*— Respondents committed to a mental health facility for a specific period of time prior to the effective date of this act shall be deemed to have been committed, for the same period of time, under this act. Respondents committed for an indefinite period of time shall be processed under this act, with the initial district court hearing conducted within 30 days after the effective date of this act.

“§ 122-58.18. *Special emergency procedure for violent persons.*—When a person subject to commitment under the provisions of this Article is also violent and requires restraint, and delay in taking him to a qualified physician for examination would likely endanger life or property, a law enforcement officer may take the person into custody and take him immediately before a magistrate or clerk. The law enforcement officer shall execute the affidavit required by G.S. 122-58.3, and in addition shall swear that the respondent is violent and requires restraint, and that delay in taking the respondent to a qualified physician for an examination would endanger life or property.

If the clerk or magistrate finds by clear, cogent, and convincing evidence that the facts stated in the affidavit are true, and that the respondent is in fact violent and requires restraint, and that delay in taking the respondent to a qualified physician for an examination would endanger life or property, he shall order the law enforcement officer to take the respondent directly to a community or regional mental health facility designated for the custody and treatment of such persons under this Article.

Respondents received at a community or regional mental health facility under the provisions of this section shall be examined and processed thereafter in the same manner as all other respondents under this Article.”

**Sec. 2.** G.S. 122-8.1 is amended by designating the present section as subsection (a), and adding a subsection “(b)” to read as follows:

“(b) Notwithstanding the provisions of subsection (a), certified copies of written results of examinations by qualified physicians and medical records in the cases of mentally ill and inebriate respondents committed or facing commitment proceedings under Article 5A of this Chapter shall be furnished through the appropriate clerk’s office to the respondent’s counsel, and to the court and the solicitor in hearings and rehearings conducted pursuant to Article 5A. Except as to matters pertaining to the commitment under review, the confidentiality of the physician-patient relationship shall be preserved.”

**Sec. 3.** G.S. 122-36(f) is repealed.

**Sec. 4.** G.S. 122-43, as it appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking “sum of fifteen dollars (\$15.00) each and mileage at the rate of ten cents (10¢) per mile” from the first sentence of the second paragraph thereof, and inserting in lieu thereof “usual and customary fees”.

**Sec. 5.** This act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1011

**CHAPTER 1409**

**AN ACT TO PROVIDE THAT THE STATE BOARD OF ELECTIONS SHALL BE AN INDEPENDENT AGENCY.**

*The General Assembly Of North Carolina enacts:*

**Section 1.** G.S. 143A-22 is hereby repealed.

**Sec. 2.** Article 3 of Chapter 163 of the General Statutes is hereby amended by adding a new section immediately following G.S. 163-19 to be designated as G.S. 163-19.1 and to read as follows:

“§ 163-19.1. *State Board of Elections Independent Agency.*—The State Board of Elections shall be and remain an independent regulatory and quasi-judicial agency and shall not be placed within any principal administrative department. The State Board of Elections shall exercise its statutory powers, duties, functions, authority, and shall have all powers and duties conferred upon the heads of principal departments under G.S. 143B-10.”

**Sec. 3.** Article 3 of Chapter 163 of the General Statutes is hereby amended by adding a new section immediately following G.S. 163-19.1 to be designated as G.S. 163-19.2 and to read as follows:

“§ 163-19.2. *Executive Secretary-Director to be appointed by Board.*—The appointment of the Executive Secretary-Director of the State Board of Elections is extended to May 15, 1977, unless removed for proper cause, and thereafter the Board shall appoint an Executive Secretary-Director for a term of four years with compensation to be determined by the Department of Personnel. He shall serve, unless removed for cause, until his successor is appointed. Such Executive Secretary-Director shall be responsible for staffing, administration, execution of the Board’s decisions and orders and shall perform such other responsibilities as may be assigned by the Board. In the event of a vacancy, the vacancy shall be filled for the remainder of the term.”

**Sec. 4.** All funds budgeted to the Department of the Secretary of State for the State Board of Elections are hereby transferred to the State Board of Elections.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1015 CHAPTER 1410

AN ACT TO AMEND CERTAIN SECTIONS OF THE STATUTES DEALING WITH PARTNERSHIPS IN ORDER TO CONFORM PERIODS OF LIMITATION TO THOSE EXISTING IN THE CURRENT LAW DEALING WITH ADMINISTRATION OF DECEDENTS' ESTATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 59-78 is hereby amended by deleting from the fourth line thereof the word "twelve" and inserting in lieu thereof the word "six".

**Sec. 2.** G.S. 59-78 is hereby further amended by rewriting lines 5, 6, 7, 8 and 9 thereof to read as follows: "The notice shall be published once a week for four consecutive weeks in a newspaper qualified to publish legal advertisements, if any such newspaper is published in the county. If there is no newspaper published in the county, but there is a newspaper having general circulation in the county, then at the option of the surviving partner the notice shall be published in the newspaper having general circulation in the county and posted at the courthouse or the notice shall be posted at the courthouse and four other public places in the county."

**Sec. 3.** G.S. 59-80 is hereby amended by deleting from the second line thereof the word "twelve" and by inserting in lieu thereof the word "six".

**Sec. 4.** G.S. 59-82 is hereby amended by deleting from the third line thereof the word "twelve" and inserting in lieu thereof the word "six".

**Sec. 5.** This act shall be in full force and effect on and after October 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1017 CHAPTER 1411

AN ACT TO AMEND G.S. 30-17 RELATING TO WHEN CHILDREN OF A DECEASED PARENT ARE ENTITLED TO A YEAR'S ALLOWANCE.

*The General Assembly of North Carolina enacts:*

**Section 1.** The first sentence of G.S. 30-17 is rewritten to read as follows:

"Whenever any parent dies leaving any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full time college student, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled, besides its share of the estate of such deceased parent, to an allowance of six hundred dollars (\$600.00) for its support for the year next ensuing the death of such parent, less, however, the value of any articles consumed by said child since the death of said parent."

**Sec. 2.** This act shall become effective upon ratification.

## CHAPTER 1411 Session Laws—1973

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

### H. B. 2190 CHAPTER 1412

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS SO AS TO PROVIDE THAT FUNDS APPROPRIATED FOR A PROBATION COMMISSION HEADQUARTERS BUILDING, WADESBORO, MAY BE TRANSFERRED TO THE DEPARTMENT OF HUMAN RESOURCES FOR A PILOT HUMAN SERVICES CENTER.

Whereas, the operation of a Probation Commission Office in Wadesboro is no longer required; and

Whereas, this area of the State needs comprehensive human service programs which can best be provided through coordinated programs and facilities not now existing in this area of the State; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 523 of the Session Laws of 1973 is hereby amended by adding a new section to follow Section 18.1, to be designated Section 18.2, and to read as follows:

“Sec. 18.2. The appropriation of two hundred thousand dollars (\$200,000) for a Probation Commission Headquarters Building in Wadesboro under the Department of Social Rehabilitation and Control is hereby transferred to the Department of Human Resources, Office of Mental Health, for the purpose of constructing and operating a Pilot Human Services Center in Anson County.”

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

### S. B. 1114 CHAPTER 1413

AN ACT TO AMEND G.S. 14-33 TO PROVIDE FOR GREATER PUNISHMENT FOR AN INMATE WHO COMMITS AN ASSAULT OR AN ASSAULT AND BATTERY ON A CORRECTIONAL OFFICER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-33(b)(4) as the same appears in the 1973 Cumulative Supplement of Volume 1B of the General Statutes of North Carolina, is hereby rewritten to read as follows:

“(4) Assaults a law enforcement officer or a custodial officer of the State Department of Correction, while the officer is discharging or attempting to discharge a duty of his office.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1539 CHAPTER 1414

AN ACT RAISING THE COST OF A STRUCTURE REQUIRING A LICENSED ARCHITECT TO A SUM OF FORTY-FIVE THOUSAND DOLLARS (\$45,000).

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 83-12 is hereby amended by deleting from the third paragraph, line 5 the words and figure “twenty thousand dollars (\$20,000)” and inserting in lieu thereof the words and figure forty-five thousand dollars (\$45,000”).

**Sec. 2.** G.S. 133-1.1(a) is hereby amended by deleting from line 5 of such subparagraph the words and figure “twenty thousand dollars (\$20,000)” and inserting in lieu thereof the words and figure “forty-five thousand dollars (\$45,000)”; G.S. 133-1.1(d) is hereby amended by deleting from line 2 of such subparagraph the words and figure “twenty thousand dollars (\$20,000)” and inserting in lieu thereof the words and figure “forty-five thousand dollars (\$45,000)”.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1149 CHAPTER 1415

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE LAW RELATING TO THE DUTIES OF THE STATE AUDITOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 147-58(9) is amended by adding at the end thereof the following:

“He shall, from time to time as he deems desirable, make review concerning economy, and efficiency of agencies operation and program effectiveness and file reports of said operations review with the agency head, the Governor and the Advisory Budget Commission.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2130 CHAPTER 1416

AN ACT TO AMEND CHAPTER 143B OF THE GENERAL STATUTES OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** Subsection (b) of Section 10, Chapter 143B of the General Statutes of North Carolina is amended by adding the following sentence:

“When any such act of the head of the principal State Department affects existing law the provisions of Article III, Section 5(10) of the Constitution of North Carolina shall be followed.”

**Sec. 2.** Subsection (d) of Section 10 of Chapter 143B of the General Statutes of North Carolina is amended by changing the period at the end of the second sentence to a comma and adding the following:

“when approved by the Advisory Budget Commission.”

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**Sec. 3.** Subsection (c) of Section 14 of Chapter 143B of the General Statutes of North Carolina is amended by striking from lines 5 and 6 the following:

“by an executive order which has the force and effect of law upon issuance but must be submitted to the General Assembly.”

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1185

## CHAPTER 1417

### AN ACT TO AMEND ARTICLE 4, CHAPTER 113A OF THE NORTH CAROLINA GENERAL STATUTES RELATING TO SEDIMENTATION POLLUTION.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113A-52 is amended as follows:

(a) by repealing subdivision (1), G.S. 113A-52, and renumbering the remaining subdivisions; and

(b) by rewriting the first sentence of subdivision (6), G.S. 113A-52, as the same appears in Volume 3A, 1973 Cumulative Supplement, General Statutes, to read as follows:

“(5) ‘Land-disturbing activity’ means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.”; and

(c) by rewriting subdivision (10), G.S. 113A-52, as the same appears in Volume 3A, 1973 Cumulative Supplement, General Statutes, to read as follows:

“(9) ‘Sediment’ means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.”

**Sec. 2.** G.S. 113A-53 is amended as follows:

(a) by rewriting subdivision (1), G.S. 113A-53(a) to read as follows: “A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners.”; and

(b) by adding to subsection (b), G.S. 113A-53, an additional concluding sentence to read as follows: “The Governor shall designate a member of the Commission to serve as chairman.”; and

(c) by rewriting the fourth sentence to read as follows: “The initial terms of office for members filling positions one, two, three and four as specified in G.S. 113-53(a), above, shall expire June 30, 1975; thereafter the terms of office for members filling those positions shall be four years.”; and

(d) by deleting from the sixth sentence the word “one”.

**Sec. 3.** G.S. 113A-55 is amended by rewriting the last sentence thereof to read as follows: “The Secretary is authorized to bring enforcement actions pursuant to G.S. 113A-64 and G.S. 113A-65.”

**Sec. 4.** G.S. 113A-56(a) is amended by rewriting subdivisions (5) and (6) to read as follows: “(5) Licensed by the State or the United States; or (6) Funded in whole or in part by the State or the United States.”

**Sec. 5.** G.S. 113A-57 is amended by rewriting subdivision (2) to read as follows:

“(2) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

**Sec. 6.** G.S. 113A-54(f) is amended by inserting at the conclusion thereof the following:

“Except for those activities enumerated in G.S. 113A-56 over which the Commission has exclusive jurisdiction, the Commission shall in no event require approval prior to the commencement of land disturbing activity.”

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1216                              CHAPTER 1418**

**AN ACT TO AMEND CHAPTER 108 OF THE GENERAL STATUTES  
RELATING TO THE FINANCING OF PUBLIC ASSISTANCE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 108-54 is hereby amended to read as follows:

“§ 108-54. *Determination of State and county financial participation.*— Before March 15 of each year the director of social services for every county shall compile and submit to the county board of social services an estimated budget of total county funds required to finance each program of public assistance, including all administrative expenses, within the county in the next fiscal year on forms furnished by the Department of Human Resources. The county board of social services shall review, modify, and approve such estimated budget and transmit it before April 1 to the board of county commissioners, which shall review, modify and approve it before April 15 for transmittal to the Department of Human Resources. The Director of the Division of Social Services, as agent for the Department of Human Resources, shall review the estimated budget submitted by each county and shall notify the board of county commissioners by June 1 of the approval or disapproval of the county's estimated budget of total county funds necessary to support and administer adequate programs of public assistance.

If the Director of the Division of Social Services approves the estimated budget submitted by the county, the county fiscal obligation for all programs of public assistance in the next fiscal year shall not exceed the approved budget estimate. Should additional funds be required for the reason that expenditures in the county public assistance programs exceed the approved estimate, the additional county share required would be provided from the ‘State Public Assistance Contingency Fund’ established in G.S. 108-54.1.

If the Director of the Division of Social Services disapproves the estimated budget of the county, he shall recommend an appropriate budget of total county funds necessary to sustain and administer adequate programs of public assistance whose acceptance by the board of county commissioners shall be a condition precedent to receiving any monies from the ‘State Public Assistance Contingency Fund’ established in G.S. 108-54.1; provided that, if the board of

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county commissioners disputes the budget recommended by the Director of the Division of Social Services as appropriate to sustain and administer adequate programs of public assistance within that county, the Secretary of Human Resources shall make a final determination that shall be binding upon the county.

Upon final determination of the county budget for all programs of public assistance within that county for the next fiscal year, the board of county commissioners shall levy taxes sufficient to provide for the payment of the county's share of such budget."

**Sec. 2.** Chapter 108 of the General Statutes is hereby amended by adding the following section immediately following G.S. 108-54, to be numbered G.S. 108-54.1, and to read as follows:

"§ 108-54.1. *State Public Assistance Contingency Fund.*—(a) To allow for an efficient and equitable means of providing the funds by which a county exceeds its budget for programs of public assistance within that county during the fiscal year, the Department of Human Resources is authorized and empowered to establish from appropriations made by the General Assembly and from grants of the federal government (when such grants are made available to the State) a fund to be known as the 'State Public Assistance Contingency Fund'. This Fund shall be used exclusively to provide additional funds for counties whose expenditures for programs of public assistance, including administration of said programs, have exceeded the accepted budget estimate.

(b) Allotments shall be made to the counties at any time during the fiscal year by the Secretary of Human Resources when satisfied of the county's need for such allotment under this Part.

(c) The allotments provided by this section shall be used by the counties entitled to them solely to supplement the funds appropriated by the county to support the budget determined pursuant to G.S. 108-54 to be necessary to sustain and administer adequate programs of public assistance within the county and only when such budget is exceeded during the fiscal year."

**Sec. 3.** G.S. 108-55 is hereby repealed.

**Sec. 4.** G.S. 108-56 is hereby amended to read as follows:

"§ 108-56. *Counties to levy taxes.*—(a) Whenever the Secretary of Human Resources or his representative assigns a portion of the non-federal share of public assistance expenses to the counties under the rules and regulations of the Social Services Commission, the board of commissioners of each county shall levy and collect the taxes required to meet the county's share of such expenses.

(b) The board of county commissioners may combine any or all of the separate special taxes for each program of public assistance and for the administrative expenses of such programs in place of levying separate special taxes for each item. This consolidated tax shall be sufficient, when combined with other funds available for use for public assistance expenses from any other source of county income and revenue (including borrowing in anticipation of collection of taxes), to meet the financial requirements of public assistance programs, and the administrative costs of each program. The appropriations and expenditures for each of the several programs and for administrative expenses shall be separately stated and accounted for."

**Sec. 5.** G.S. 108-57 is hereby amended to read as follows:

"§ 108-57. *Appropriations not to revert.*—County appropriations for public assistance expenses or administrative expenses shall not lapse or revert, and the

unexpended balances may be considered in making further public assistance or administrative appropriations. At any time during the fiscal year, any county may transfer county funds from one public assistance program to another and between programs of public assistance and administration if such action appears to be both necessary and feasible, provided the county secures the approval of the Secretary of Human Resources or his representative.”

**Sec. 6.** This act shall become effective on July 1, 1974, and shall remain effective through June 30, 1975. The General Assembly may re-enact this act.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1245                      CHAPTER 1419**

**AN ACT TO AUTHORIZE THE BOARDS OF EDUCATION AND OTHER PUBLIC AUTHORITIES TO ENTER INTO CERTAIN CONTRACTS WITHOUT COMPLYING WITH THE PROVISIONS OF SECTION 128 OF CHAPTER 143 OF THE GENERAL STATUTES.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-128 is hereby amended by adding a new paragraph at the end thereof to read as follows:

“All public authorities coming within the requirements of this section shall have the authority to purchase and erect relocatable or prefabricated buildings or portions thereof without complying with the provisions of this section, except that portion of the work which must be performed at the construction site.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1316                      CHAPTER 1420**

**AN ACT TO ENUMERATE THE CAUSES FOR IMPEACHMENT.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 123-5 is hereby rewritten in its entirety to read as follows:

“§ 123-5. *Causes for impeachment.*—Each member of the Council of State, each justice of the General Court of Justice, and each judge of the General Court of Justice shall be liable to impeachment for the commission of any felony, or the commission of any misdemeanor involving moral turpitude, or for malfeasance in office, or for willful neglect of duty.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1335

**CHAPTER 1421**

AN ACT TO DEFINE "RELIGIOUS PURPOSE" TO INCLUDE RESIDENCES OF MINISTERS ASSIGNED TO OR SERVING A CONFERENCE, ASSOCIATION, PRESBYTERY, DIOCESE, DISTRICT, SYNOD OR SIMILAR CHURCH UNIT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 105-278.3, as the same appears in the 1973 Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended by rewriting the third sentence of subsection (d)(1) thereof to read as follows:

"Within the meaning of this section, the ownership and maintenance of a general or promotional office or headquarters by an owner listed in subdivision (2) of subsection (c), above, is a religious purpose and the ownership and maintenance of residences for clergy, rabbis, priests or nuns assigned to or serving a congregation, parish, mission or similar local unit, or a conference, association, presbytery, diocese, district, synod, province or similar unit of a church or religious body or residences for clergy on furlough or unassigned, is also a religious purpose."

**Sec. 2.** This act shall become effective with respect to taxable years beginning on and after January 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1382

**CHAPTER 1422**

AN ACT TO CREATE A PERMANENT LEGISLATIVE COMMISSION ON CHILDREN WITH SPECIAL NEEDS.

Whereas, the General Assembly finds that North Carolina lags behind many states in providing adequate and equitable service for its children with special needs; and

Whereas, the health, education, and development of the children of North Carolina and their families is of prime consideration to the State and deserves direct legislative attention; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 120 of the General Statutes of North Carolina is hereby amended by adding at the end thereof a new Article 12, to read:

"Article 12.

"Commission on Children with Special Needs.

"§ 120-58. *Creation; appointment of members.*—There is hereby created a Commission on Children with Special Needs to consist of three Senators appointed by the President (or Pro Tempore) of the Senate, three Representatives appointed by the Speaker of the House, and three parents of children with special needs appointed by the Governor.

"§ 120-59. *Time of appointments; terms of office.*—Appointments to the Commission shall be made within 15 days subsequent to the close of each regular session of the General Assembly. The term of office shall begin on the day of appointment, and shall end on the date when the next appointments are made. Vacancies occurring during a term shall be filled for the unexpired term by the officer who made the original appointment.

“§ 120-60. *Organization of Commission.*—Upon its appointment, the Commission shall organize by electing from its membership a chairman. The Commission shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building shall be available to the Commission. The Commission is authorized to conduct hearings and to employ such clerical and other assistance, professional advice and services as may be deemed necessary in the performance of its duties, with the approval of the Legislative Services Commission.

“§ 120-61. *Members to serve without compensation; subsistence and travel expenses.*—Members of the Commission shall serve without compensation but they shall be paid such per diem and travel expenses as are provided for members of State boards and commissions generally pursuant to G.S. 138-5.

“§ 120-62. *Assistance to the Commission.*—The commission, in the performance of its duties, may request and shall receive from every department, board, bureau, agency, commission, or institution of this State, or from any political subdivision of the State, information, cooperation, and assistance.

“§ 120-63. *Duties of Commission.*—The Commission is hereby authorized to:

(1) Pursue an in-depth study of the services provided by other states for children with special needs.

(2) Collect and evaluate for comprehensiveness existing legislation in North Carolina which is relevant to programs for children with special needs; as well as pertinent reports, studies and findings from other states and national bodies.

(3) Collect and evaluate for comprehensiveness the reports and recommendations of the various agencies, councils, commissions, committees, and associations existing in North Carolina whose primary or partial duties are to make recommendations designed to affect services for children with special needs.

(4) Monitor on a continuing basis the progress of the State as it moves toward meeting the service requirements for children with special needs.

“§ 120-64. *Reports to the General Assembly.*—The Commission shall make a report to the General Assembly not later than February 1, 1975, and February 1 of each subsequent session. The first report shall contain:

(1) A comparison of services provided by the State with those services provided by other states.

(2) Legislation designed to strengthen the role of the State in meeting its responsibilities to children with special needs.

Subsequent reports shall contain quantifiable statements of accomplishments by providers of service and any additional legislation deemed necessary.

The report of 1979 shall contain a review of the effectiveness of the Commission and a recommendation concerning further retention of the Commission.

**Sec. 2.** *Appropriation.* There is hereby appropriated from the General Fund of the State of North Carolina the sum of forty thousand dollars (\$40,000) to the Commission on Children with Special Needs for the 1974-1975 fiscal year for the purpose of paying reasonable expenses of the Commission and its staff.

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1422

**CHAPTER 1423**

AN ACT TO AMEND G.S. 143-135.3 RELATING TO THE PROCEDURE FOR SETTTLING CONTROVERSIES ARISING FROM CONTRACTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-135.3 is hereby amended by the addition of the following paragraph at the end of said section:

“‘Contractor’ as used in this section includes any person, firm, association or corporation which has contracted with a State board for architectural, engineering or other professional services in connection with construction or repair work as well as those persons who have contracted to perform such construction or repair work.”

**Sec. 2.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1434

**CHAPTER 1424**

AN ACT TO PERMIT LAW ENFORCEMENT OFFICERS TO PURCHASE EQUIPMENT USED BY THEM IN LINE OF DUTY WHEN DECLARED SURPLUS BY EMPLOYING AGENCY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-187.2(b) is hereby amended by striking from line two thereof the words “from .38 caliber or .41 caliber to .357 magnum”, appearing immediately after the word “revolvers” and immediately before the word “may”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1451

**CHAPTER 1425**

AN ACT TO AMEND G.S. 135-5.1 CONCERNING EMPLOYEE CONTRIBUTION TO OPTIONAL RETIREMENT PROGRAMS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 135-5.1 is hereby amended by re-writing the first sentence of subsection (c) to read as follows:

“(c) Each employing institution shall contribute on behalf of each participant in such optional retirement program an amount equal to the amount which the employee would be required to contribute to the Retirement System as a member of said Retirement System as specified in G.S. 135-8(b)(1).”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1495                      CHAPTER 1426**

AN ACT TO APPROPRIATE FROM THE CONTINGENCY AND EMERGENCY FUND ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) TO THE DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL FOR THE ADMINISTRATION OF AN INMATE GRIEVANCE COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** It is suggested to the Council of State that there be transferred as needed to the Department of Social Rehabilitation and Control from the Contingency and Emergency Fund of the State the sum of one hundred fifty thousand dollars (\$150,000) for the fiscal year beginning July 1, 1974, for the purpose of administering an Inmate Grievance Commission, provided such Commission is created by an act of the 1974 General Assembly.

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1782                      CHAPTER 1427**

AN ACT TO REPEAL CHAPTER 1139 OF THE 1959 SESSION LAWS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 1139 of the 1959 Session Laws is hereby repealed.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1795                      CHAPTER 1428**

AN ACT TO AMEND THE LICENSE FEES FOR THE PRIVATE PROTECTIVE SERVICES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 74B-11(c) as the same appears in the 1973 Cumulative Supplement to Volume 2C is hereby rewritten to read as follows:

“(c) Application and license fees are as follows:

1. Fifty dollar (\$50.00) nonrefundable application fee.
2. Two hundred dollar (\$200.00) fee for a new or renewed license.
3. Fifty dollars (\$50.00) for annual trainee permit, which may be renewed three times.
4. Twenty-five dollar (\$25.00) fee for each license in addition to the two hundred dollar (\$200.00) basic license.
5. Ten dollar (\$10.00) registration fee (nontransferable) for a security guard paid by the guard for each registration.

All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purposes of defraying the expenses of administering this Chapter.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2044

CHAPTER 1429

AN ACT AMENDING CHAPTER 224, 1927 PRIVATE LAWS, AS AMENDED, TO PERMIT THE COSTS OF CONSTRUCTION OF PUMPING STATIONS, FORCE MAINS, OR SANITARY SEWER OUTFALLS TO BE SPECIALLY ASSESSED AGAINST BENEFITED PROPERTIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4(c) of Chapter 224 of the 1927 Private Laws, as amended, is hereby amended by changing the period at the end of such subsection to a comma and inserting after such comma the words “the construction or reconstruction of pumping stations and force mains or the construction or reconstruction of sanitary sewer outfalls”.

**Sec. 2.** Section 14(c) of Chapter 224 of the 1927 Private Laws, as amended, is hereby amended by deleting from line twenty-nine of such subsection the words “pumping station, outfall,” as such words appear and by changing the period following the word “assessed” on line 30 of such subsection to a colon and inserting after such colon the following words:

“Provided further, that if the resolution ordered the construction of any pumping station, force main or sanitary sewer outfall, the cost thereof may be assessed against the lots and parcels of land abutting on said street or streets, or parts thereof, according to their respective frontages thereon (i.e. the entire frontage benefited by such pumping station, force main or sanitary sewer outfall) by an equal rate per front foot of such frontage; provided, however, in the case of a corner lot, used as a single lot, where there is a sewer already laid on the intersecting street on which such lot abuts and by which such lot is or can be served, no assessment shall be made against said lot for the costs of any pumping station, force main or sanitary sewer outfall incident to the second sewer for any part of the frontage of said lot except that portion in excess of one hundred and fifty feet if said lot is in a residential section, or in excess of one hundred feet if said lot is in a business section, and in such case such portion of said cost as would otherwise be assessed against said lot shall be borne by the municipality.”

**Sec. 3.** This act shall apply only to the City of Durham.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2112

CHAPTER 1430

AN ACT TO PROVIDE FOR BI-WEEKLY PAYMENT OF ANNUAL SALARIES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-1 is amended by adding after the word “monthly” the following: except employees of the institutions of the Department of Human Resources may be paid bi-weekly effective July 1, 1974.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 2163                      CHAPTER 1431**

AN ACT TO EXEMPT METHANOL FROM THE SPECIAL FUELS TAX.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 36A of Chapter 105 of the General Statutes as the same appears in the 1972 Replacement Volume 2D is hereby amended by rewriting G.S. 105-449.2(3) to read as follows:

“(3) ‘Fuel’ or ‘fuels’ shall mean and include all combustible gases and liquids, used, purchased or sold for use in an internal combustion engine or motor for the generation of power to propel motor vehicles on the public highways, except methanol (CH<sub>3</sub>OH) in its unadulterated state or methanol in combination with other alcohols, and except such fuels as are subject to the tax imposed by G.S. 105-434.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1012                      CHAPTER 1432**

AN ACT TO AMEND G.S. 20-80 RELATING TO NATIONAL GUARD REGISTRATION PLATES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-80 as same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by striking the word “automobile” appearing immediately after the word “of” and immediately before the word “license” in line 2 thereof and inserting in lieu thereof the words “motor vehicle”; by inserting immediately after the word “vehicles” appearing in line 10, the words “not registered for more than 4,000 pounds”, and by striking the words “two hundred and” appearing in line 17 immediately after the word “number” and immediately before the word “one”, by striking the words in lines 19 and 20 “numerals two hundred and” and inserting in lieu thereof the word “numeral”.

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1049                      CHAPTER 1433**

AN ACT TO REWRITE G.S. 122-85 CONCERNING MENTALLY ILL CONVICTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-85 is rewritten to read as follows:

“§ 122-85. *Convicts becoming mentally ill.*—(a) A convict who becomes mentally ill and imminently dangerous to himself or others after commitment to any penal institution in the State shall be processed in accordance with Article 5A of this Chapter, as modified by this section, except when the provisions of Article 5A are manifestly inappropriate. A staff psychiatrist of the prison shall execute the affidavit required by G.S. 122-58.3, and send it to the clerk of superior court of the county in which the penal facility is located. Upon receipt of the affidavit, the clerk shall calendar a district court hearing, and

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notify the respondent and his counsel as required by G.S. 122-58.5. The hearing shall be conducted in a district courtroom. If the judge finds by clear, cogent, and convincing evidence that the respondent is mentally ill and imminently dangerous to himself or others, he shall order him transferred for treatment to a regional psychiatric facility designated by the Division of Mental Health Services.

(b) If the sentence of a convict-respondent expires while he is committed to a regional psychiatric center, he shall be considered in all respects as if he had been initially confined under Article 5A.

(c) If, in the opinion of the chief of medical services of the regional psychiatric facility, a convict-respondent ceases to be mentally ill and imminently dangerous to himself or others, he shall notify the Office of Correction which shall arrange for the convict-respondent's return to a prison facility.

(d) Special counsel at a regional psychiatric facility shall represent any convict who becomes mentally ill and imminently dangerous to himself or others while confined in a penal facility in the same county."

**Sec. 2.** This act shall become effective the same day that Senate Bill 981, if ratified, becomes effective. If Senate Bill 981, is not ratified, this act shall be void and of no effect.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1059

## CHAPTER 1434

AN ACT TO REVISE THE NORTH CAROLINA ANTI-OBSCENITY STATUTE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 14-190.1 as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is hereby rewritten to read as follows:

"§ 14-190.1. *Obscene literature and exhibitions.*—(a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity in any public place. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

- (1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) Publishes, exhibits or otherwise makes available anything obscene; or
- (4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide; any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

(b) For purposes of this Article any material is obscene if:

- (1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and
- (2) The average person applying contemporary statewide community standards relating to the depiction or representation of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and
- (3) The material lacks serious literary, artistic, political, educational or scientific value; and
- (4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

(c) Sexual conduct shall be defined as:

- (1) Patently offensive representations or descriptions of actual sexual intercourse, normal or perverted, anal or oral;
- (2) Patently offensive representations or descriptions of excretion in the context of sexual activity or a lewd exhibition of uncovered genitals, in the context of masturbation or other sexual activity.

(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences. In any prosecution for an offense involving dissemination of obscenity under this Article, evidence shall be admissible to show:

- (1) The character of the audience for which the material was designed or to which it was directed;
- (2) Whether the material is published in such a manner that an unwilling adult could not escape it;
- (3) Whether the material is exploited so as to amount to pandering;
- (4) What the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (5) Literary, artistic, political, educational, scientific, or other social value, if any, of the material;
- (6) The degree of public acceptance of the material throughout the State of North Carolina;
- (7) Appeal to prurient interest, or absence thereof, in advertising or in the promotion of the material.

Expert testimony and testimony of the author, creator or publisher relating to factors entering into the determination of the issue of obscenity shall also be admissible.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and, unless a greater penalty is expressly provided for in this Article, shall be fined or imprisoned in the discretion of the court."

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**Sec. 2.** G.S. 14-190.2(a) as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended as follows:

“§ 14-190.2. *Adversary hearing prior to seizure or criminal prosecution.*—(a) The purpose of this section is to provide an adversary determination of the question of whether books, magazines, motion pictures, or other materials are obscene prior to their seizure or prior to a criminal prosecution relating to such materials.”

**Sec. 3.** G.S. 14-190.2(f), as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is hereby rewritten to read as follows:

“(f) No judgment or subsequent order of enforcement thereof, entered pursuant to the provisions of this section, shall be of any force and effect outside the judicial district in which entered; and no such order or judgment shall be res judicata in any proceeding in any other judicial district. Further, evidence of any hearing held pursuant to this section shall not be competent or admissible in any criminal action for the violation of any other section of this Article; provided, however, that in any criminal action, charging the violation of any other section of this Article, against any person, firm or corporation that was a respondent in such hearing, and involving the same material declared to be obscene under the provisions of this section, then evidence of such hearing shall be competent and admissible as bearing on the issue of scienter only.”

**Sec. 4.** G.S. 14-190.2 (g), as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended as follows:

“(g) Any respondent described in this section who shall violate any provision of this section or any order issued under any provision of this section shall be subject to punishment, by the court, as for contempt.”

**Sec. 5.** G.S. 14-190.2 (h), as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes, is hereby amended as follows:

“(h) No person, firm or corporation shall be arrested or indicted for any violation of a provision of G.S. 14-190.1, G.S. 14-190.3, G.S. 14-190.4, G.S. 14-190.5, G.S. 14-190.6, G.S. 14-190.7, G.S. 14-190.8, G.S. 14-190.10 or G.S. 14-190.11 until the material involved has first been the subject of an adversary determination under the provisions of this section, wherein such person, firm or corporation is a respondent, and wherein such material has been declared by the court to be obscene or in the case of G.S. 14-190.10 or G.S. 14-190.11, to be sexually oriented and until such person, firm or corporation continues, subsequent to such determination, to engage in the conduct prohibited by a provision of the sections hereinabove set forth.”

**Sec. 6.** G.S. 14-190.2 as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding thereto a new subsection (i) which shall read as follows:

“(i) Any person, firm or corporation which is given written notice by registered mail of the filing of the complaint and of the judgment of the court as provided for in this section shall be deemed a respondent and shall be bound by the judgment of the court.”

**Sec. 7.** G.S. 14-190.2 as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding thereto a new subsection (j) which shall read as follows:

“(j) The State or any respondent may appeal from a judgment. Such appeal shall not stay the judgment. If any respondent engages in conduct prohibited by this Article subsequent to notice of the judgment, finding the material to be obscene he shall be subject to criminal prosecution notwithstanding the appeal from the judgment.”

**Sec. 8.** G.S. 14-190.2 as the same now appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes is hereby amended by adding thereto a new subsection (k) which shall read as follows:

“(k) Any person, firm or corporation which is disseminating or which may disseminate the material challenged in the civil proceeding provided for in this section may intervene in said proceeding as a matter of right. Said intervenor shall have all the rights of a respondent and shall be bound by the judgment.”

**Sec. 9.** Article 26 of Subchapter VII of Chapter 14 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 14-190.10 and to read as follows:

“§ 14-190.10. *Disseminating sexually oriented material to minors.*—(a) Every person, firm or corporation who intentionally and knowingly disseminates sexually oriented material to any person under 18 years of age shall be guilty of a misdemeanor. A person, firm or corporation disseminates sexually oriented material within the meaning of this section if he, she or it:

- (1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any sexually oriented writing, picture, record or other representation or embodiment that is sexually oriented; or
- (2) Presents or directs a sexually oriented play, dance or other performance or participates directly in that portion thereof which makes it sexually oriented; or
- (3) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide; any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication that is sexually oriented.

(b) For purposes of this section any material is sexually oriented if:

- (1) The material is made up in whole or dominant part of representations or descriptions, actual or simulated, of human sexual intercourse, masturbation, sodomy, direct physical stimulation of unclothed genitals, or flagellation or torture in the context of a sexual relationship or which emphasizes the uncovered human genitals; and
- (2) The material lacks serious literary, artistic, political, educational or scientific value for persons under 18 years of age; and
- (3) The dominant theme of the material appeals to the prurient interests in sex of persons under 18 years of age.

(c) It shall be an affirmative defense to a prosecution under this section for the defendant to show:

- (1) That the dissemination was made with the consent of a parent or guardian of the recipient, that the defendant was misled as to the existence of parental consent by a misrepresentation of parental status by an individual purporting to be a parent of the recipient, or that the

dissemination was made to the recipient by his teacher, clergyman or a librarian in the discharge of official responsibilities;

- (2) That the recipient was married, or that the defendant was misled in this regard by a misrepresentation of marital status by the recipient;
- (3) That the defendant was misled as to the age of the recipient by false proof of identification and age offered by the recipient.

(d) Any person under the age of 18 years who gains admission to any theater by falsely claiming to be 18 years of age or older shall be guilty of a misdemeanor and punished by a fine of not more than fifty dollars (\$50.00).”

**Sec. 10.** Article 26 of Subchapter VII of Chapter 14 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 14-190.11 and to read as follows:

“§ 14-190.11. *Public display of sexually oriented materials.*—(a) Every person, firm or corporation who intentionally and knowingly places sexually oriented materials upon public display, or who knowingly and intentionally fails to take prompt action to remove such a display from property in his possession after learning of its existence shall be guilty of a misdemeanor.

(b) For purposes of this section any material is sexually oriented if the material is made up in whole or dominant part of representations or descriptions of actual or simulated human sexual intercourse, masturbation, sodomy, direct physical stimulation of unclothed genitals or flagellation or torture in the context of a sexual relationship or emphasizes the uncovered human genitals and the material lacks serious literary, artistic, political, educational or scientific value and the dominant theme of the material appeals to the prurient interests in sex.

(c) A person, firm or corporation places sexually oriented material upon public display within the meaning of this Article if he, she or it places the material on or in a billboard, viewing screen, theater stage or marquee, newsstand, display rack, window, showcase, display case or similar place so that explicit sexually oriented material is easily visible from a public street, public road or sidewalk or from the normally occupied property of others.

(d) Nothing contained in this section shall be deemed to prohibit or make unlawful the dissemination or display of material, the external visible covers of which do not depict any of the acts embraced within the definition of ‘sexually oriented’.”

**Sec. 11.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1088

## CHAPTER 1435

AN ACT TO ADD G.S. 1-42.3 RELATING TO THE EXTINGUISHMENT OF CERTAIN ADDITIONAL MINERAL RIGHTS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 1-42.3. Certain additional ancient mineral claims extinguished; oil, gas and mineral interest to be recorded and listed for taxation.—(a) Where it appears on the public records that the fee simple title to any oil, gas or mineral interests in an area of land has been severed or separated from the surface fee simple ownership of such land and such interest is not in actual course of being mined, drilled, worked or operated, or in the adverse

possession of another, or that the record titleholder of any such oil, gas or mineral interests has not listed the same for ad valorem tax purposes in the county in which the same is located for a period of 10 years prior to January 1, 1974, any person having the legal capacity to own land in this State, who has on September 1, 1974, an unbroken chain of title of record to such surface estate of such area of land for at least 50 years and provided such surface estate is not in the adverse possession of another, shall be deemed to have a marketable title to such surface estate as provided in the succeeding subsections of this section, subject to such interests and defects as are inherent in the provisions and limitations contained in the muniments of which such chain of record title is formed.

(b) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of any and all such fee simple oil, gas or mineral interest in such area of land founded upon any reservation or exception contained in an instrument conveying the surface estate in fee simple which was executed or recorded at least 50 years or more prior to September 1, 1974, and such oil, gas or mineral interests are hereby declared to be null and void and of no effect whatever at law or in equity: Provided, however, that any such fee simple oil, gas or mineral interest may be preserved and kept effective by recording within two years after September 1, 1974, a notice in writing duly sworn to and subscribed before an official authorized to take probate by G.S. 47-1, which sets forth the nature of such oil, gas or mineral interest and gives the book and page where recorded. Such notice shall be probated as required for registration of instruments by G.S. 47-14 and recorded in the office of the register of deeds of the county wherein such area of land, or any part thereof lies, and in the book therein kept or provided under the terms of G.S. 1-42 for the purpose of recording certain severances of surface and subsurface land rights, and shall state the name and address of the claimant and, if known, the name of the surface owner and also contain either such a description of the area of land involved as to make said property readily located thereby or due incorporation by reference of the recorded instrument containing the reservation or exception of such oil, gas or mineral interest. Such notice may be made and recorded by the claimant or by any other person acting on behalf of any claimant who is either under a disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

(c) This section shall be construed to effect the legislative purpose of facilitating land title transactions by extinguishing certain ancient oil, gas or mineral claims unless preserved by recording as herein provided. The oil, gas or mineral claims hereby extinguished shall include those of persons whether within or without the State, and whether natural or corporate, but shall exclude governmental claims, State or federal, and all such claims by reason of unexpired oil, gas or mineral releases.

(d) Within two years from November 1, 1974, all oil, gas or mineral interest in lands severed or separated from the surface fee simple ownership must be listed for ad valorem taxes and notice of such interest must be filed in writing in the manner provided by G.S. 1-42.3 (b) and recorded in the local registry in the book provided by G.S. 1-42, to be effective against the surface fee simple owner or creditors, purchasers, heirs or assigns of such owner. Subsurface oil, gas and mineral interest shall be assessed for ad valorem taxes as real property and such



**Sec. 6.** G.S. 122-55.6 is amended by rewriting the first paragraph thereof to read as follows:

“Each institutionalized patient shall have the right to receive appropriate treatment for mental and physical ailments and for the prevention of illness or disability. Each patient within 30 days after admission shall have an individual written treatment or habilitation plan formulated by the treatment facility’s mental health or mental retardation professionals. Each patient who has been institutionalized in a State hospital shall have, as soon as practical but not later than the time of discharge, an individualized written post-institutionalization plan setting forth a program of recommended vocational counseling or outpatient care. A copy of such plan shall be furnished to the patient or his guardian and, with the consent of the patient, to his attorney and his next of kin.”

**Sec. 7.** G.S. 122-55.6 is amended by deleting the word “patently” in line 6 of the second paragraph.

**Sec. 8.** Article 3 of G.S. Chapter 122 is amended by inserting a new Part 3, to read as follows:

“Part 3. Rights of Minor Patients

“§ 122-55.8. *Declaration of policy on rights of minor patients.*—It is the policy of North Carolina to insure basic rights to each minor patient of a treatment facility. These rights include the right to dignity, humane care, and proper adult supervision and guidance. In recognition of his status as a developing individual, the minor shall be provided opportunities to enable him to mature physically, emotionally, intellectually, socially, and vocationally. In view of the physical, emotional, and intellectual immaturity of the minor, the treatment facility shall stand in loco parentis to the minor when he is in residence.

“§ 122-55.9. *Rights of minor patients.*—(a) Each minor patient of a treatment facility may at all reasonable times:

- (1) Communicate and consult with the agency or individual having legal custody of him; and
- (2) Communicate and consult with legal counsel and private mental health or mental retardation specialists of his or his legal custodian’s or guardian’s choice, at his own expense.

(b) Except as provided in subsection (c), each minor patient of a treatment facility shall have the right to:

- (1) Receive special education and vocational training in addition to other forms of treatment;
- (2) Participate in play, recreation, physical exercise, and outdoor activity on a regular basis, in accordance with his needs;
- (3) Keep and use his own clothing and personal possessions under appropriate supervision;
- (4) Participate in religious worship;
- (5) Receive such assistance as needed in sending and receiving correspondence, and in making telephone calls at his own expense;
- (6) Receive visitors, under appropriate supervision, between the hours of 8 a.m. and 9 p.m. for a period of at least six hours daily, two hours of which shall be after the hour of 6 p.m., such visiting not to take precedence over school or therapies; and
- (7) Have access to individual storage space for his own use.

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(c) No right enumerated in subsection (b) may be restricted without a written statement in the minor's treatment or habilitation plan which indicates the detailed reason for such restriction. No restriction of rights shall be made except by mental health or mental retardation professionals responsible for the formulation of the patient's treatment or habilitation plan. A written restriction shall be effective for a period not to exceed 60 days and shall be renewed only by a written statement entered by a mental health or mental retardation professional in the minor's treatment or habilitation plan which indicates the detailed reasons for such renewal. Provided, however, that no restriction may be placed upon the right of any patient to communicate with an attorney of the patient's choice, to have that attorney visit with him and, with the consent of the patient, to have the attorney provided with copies of all pertinent records and information relating to the patient.

(d) G.S. 122-55.3, 122-55.4, 122-55.5, and 122-55.6 are also applicable to minors."

**Sec. 9.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1132

## CHAPTER 1437

AN ACT TO PRESCRIBE THE PROCEDURE TO BE FOLLOWED UPON ACQUITTAL OF A CRIMINAL DEFENDANT ON GROUNDS OF MENTAL ILLNESS.

*The General Assembly of North Carolina enacts:*

**Section 1.** A new section is added to G.S. Chapter 122, Article 11, to read as follows:

"§ 122-84.1 *Acquittal of defendant on grounds of mental illness; procedure.*—  
(a) Upon the acquittal of any criminal defendant on grounds of mental illness, the trial court shall order the defendant held under appropriate restraint pending a hearing on the issue of whether the defendant is mentally ill and imminently dangerous to himself or others, as these terms are defined in Article 5A of this Chapter. The hearing shall be conducted in accordance with the provisions of G.S. 122-58.7 except that the hearing shall be held in a courtroom and need not be closed to the public. Evidence adduced at the trial of the defendant on the criminal charges on the issue of mental illness shall be admissible at the hearing. If the hearing cannot be conducted prior to the termination of the session of court in which the criminal trial was had, it shall be calendared in the district court in the same county within 10 days. If the court finds that the defendant-respondent is mentally ill and imminently dangerous to himself and others, it shall order him committed to a regional psychiatric facility designated by the Division of Mental Health Services for a period of not more than 90 days. The defendant shall thereafter be considered as though he had been committed initially under the provisions of Article 5A of this chapter. If the court finds that the defendant is not mentally ill and imminently dangerous to himself or others, it shall order his discharge.

(b) The provisions of this section supersede those provisions of G.S. 122-84 which prescribe the procedures to be used in the case of a defendant acquitted of a criminal charge by reason of mental illness."

**Sec. 2.** G.S. 122-86 is repealed.

**Sec. 3.** This act shall become effective the same day that SB 981, if ratified, becomes effective. If SB 981 is not ratified, this act shall be void and of no effect.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1325                      CHAPTER 1438**

AN ACT TO AMEND CHAPTER 58 OF THE GENERAL STATUTES OF NORTH CAROLINA BY ADDING A NEW ARTICLE THERETO TO BE KNOWN AS ARTICLE 17C.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 58 of the General Statutes of North Carolina is amended by adding a new Article thereto as follows:

“Article 17C.

“Life and Accident and Health Insurance Guaranty Association.

“§ 58-155.60. *Title.*—This Article shall be known and may be cited as the ‘Life and Accident and Health Insurance Guaranty Association Act’.

“§ 58-155.61. *Purpose.*—The purpose of this Article is to maintain public confidence in the promises of insurers, to provide a mechanism for the payment of covered claims under certain insurance policies, to assist in the detection and prevention of insurer insolvencies, and to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the Association are subject to assessment to provide funds to carry out the purpose of this Article, and (3) the Association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

“§ 58-155.62. *Scope.*—(1) This Article shall apply to direct life policies, accident and health insurance policies, annuity contracts, variable contracts, and contracts supplemental to life and accident and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this State at any time.

(2) This Article shall not apply to:

- (a) Any such policies or contracts, or any part of such policies or contracts under which the risk is borne by the policyholder;
- (b) Any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;
- (c) Any policy or contract issued by a corporation governed by the provisions of Chapter 57 of the General Statutes;
- (d) Any policy or contract issued by a fraternal order or society.

“§ 58-155.63. *Construction.*—This Article shall be liberally construed to effect the purpose under G.S. 58-155.61 which shall constitute an aid and guide to interpretation.

“§ 58-155.64. *Definitions.*—As used in this Article:

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(1) 'Account' means either of the three accounts created under G.S. 58-155.65.

(2) 'Association' means the Life and Accident and Health Insurance Guaranty Association created under G.S. 58-155.65.

(3) 'Commissioner' means the Commissioner of Insurance of this State.

(4) 'Contractual obligation' means any obligation under covered policies.

(5) 'Covered policy' means any policy or contract within the scope of this Article under G.S. 58-155.62.

(6) 'Impaired insurer' means (a) an insurer which after the effective date of this Article, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or (b) an insurer deemed by the Commissioner after the effective date of this Article to be unable or potentially unable to fulfill its contractual obligations.

(7) 'Member insurer' means any person authorized to transact in this State any kind of insurance to which this Article applies under G.S. 58-155.62.

(8) 'Premiums' means direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. 'Premiums' do not include premiums and considerations on contracts between insurers and reinsurers. As used in G.S. 58-155.68 'premiums' are those for the calendar year preceding the determination of impairment.

(9) 'Person' means any individual, corporation, partnership, association or voluntary organization.

(10) 'Resident' means any person who resides in this State at the time the impairment is determined and to whom contractual obligations are owed.

"§ 58-155.65. *Creation of the Association.*—(1) There is created a nonprofit legal entity to be known as the Life and Accident and Health Insurance Guaranty Association. As a condition of their authority to transact insurance in this State, all member insurers shall be and remain members of the Association and shall be jointly and severally liable for all contractual obligations incurred by impaired insurers of the Association. The Association shall perform its functions under the plan of operation established and approved under G.S. 58-155.69 and shall exercise its powers through a board of directors established under G.S. 58-155.66. For purposes of administration and assessment, the Association shall maintain three accounts:

(a) The accident and health insurance account;

(b) The life insurance account; and

(c) The annuity account.

(2) The Association shall come under the immediate supervision of the Commissioner and shall be subject to the applicable provisions of the insurance laws of this State.

"§ 58-155.66. *Board of directors.*—(1) The board of directors of the Association shall consist of not less than five nor more than nine members serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the Commissioner. Vacancies on the board shall be filled for the remaining period of the term in the manner described in the plan of operation. To select the initial board of directors, and initially organize the Association, the Commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational

meeting each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within 60 days after notice of the organizational meeting, the Commissioner may appoint the initial members.

(2) In approving selections or in appointing members to the board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the Association for expenses incurred by them as members of the board of directors but members of the board shall not otherwise be compensated by the Association for their services.

“§ 58-155.67. *Powers and duties of the Association.*—In addition to the powers and duties enumerated in other sections of this Article:

(1) If a domestic insurer is an impaired insurer, the Association may, prior to an order of liquidation or rehabilitation, and subject to any conditions imposed by the Association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the Commissioner:

- (a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, all the covered policies of the impaired insurer;
- (b) Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate paragraph (a), and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a);
- (c) Loan money to the impaired insurer.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such domestic impaired insurer.

(2) If a foreign or alien insurer is an impaired insurer, the Association may, prior to an order of liquidation, rehabilitation, or conservation, with respect to the covered policies of residents and subject to any conditions imposed by the Association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the Commissioner:

- (a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the insurer's covered policies of residents;
- (b) Provide such monies, pledges, notes, guarantees or other means as are proper to effectuate paragraph (a), and assure payment of the impaired insurer's contractual obligations to residents pending action under paragraph (a);
- (c) Loan money to the impaired insurer.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such foreign or alien impaired insurer.

(3) If a domestic insurer is an impaired insurer under an order of liquidation or rehabilitation, the Association shall, subject to the approval of the Commissioner:

- (a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed or reinsured the covered policies of the impaired insurer;
- (b) Assure payment of the contractual obligations of the impaired insurer; and
- (c) Provide such monies, pledges, notes, guarantees, or other means as are

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reasonably necessary to discharge such duties.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such domestic impaired insurer.

(4) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, the Association shall, subject to the approval of the Commissioner:

- (a) Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;
- (b) Assure payment of the contractual obligations of the impaired insurer to residents; and
- (c) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such foreign or alien impaired insurer.

(5) (a) In carrying out its duties under subsections (3) and (4), the Association may request that there be imposed policy liens, contract liens, moratoriums on payments or other similar means and such liens, moratoriums, or similar means may be imposed if the Commissioner:

- (i) Finds that the amounts which can be assessed under this Article are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest, and
- (ii) Approves the specific policy liens, contract liens, moratoriums, or similar means to be used.

(b) Before being obligated under subsections (3) and (4) the Association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans and such temporary moratoriums and liens may be imposed if they are approved by the Commissioner.

(6) The Association shall have no liability under this section for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation, for residents of this State protection substantially similar to that provided by this Article for residents of other states.

(7) The Association may render assistance and advice to the Commissioner, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer.

(8) The Association shall have standing to appear before any court in this State with jurisdiction over an impaired insurer concerning which the Association is or may become obligated under this Article. Such standing shall extend to all matters germane to the powers and duties of the Association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired insurer and the determination of the covered policies and contractual obligations.

(9) (a) Any person receiving benefits under this act shall be deemed to have

assigned his rights under the covered policy to the Association to the extent of the benefits received because of this Article whether the benefits are payments of contractual obligations or continuation of coverage. The Association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insurer or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this Article upon such person. The Association shall be subrogated to these rights against the assets of any impaired insurer.

(b) The subrogation rights of the Association under this subsection shall have the same priority against the assets of the impaired insurer as that possessed by the person entitled to receive benefits under this Article.

(10) The contractual obligations of the impaired insurer for which the Association becomes or may become liable shall be as great as but no greater than the contractual obligations of the impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted by subsection (5).

(11) The Association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this Article.

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under G.S. 58-155.68 or to enforce any other obligations under the provisions of this Article.

(c) Borrow money to effect the purposes of this Article. Any notes or other evidence of indebtedness of the Association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

(d) Employ or retain such persons as are necessary to handle the financial transactions of the Association, and to perform such other functions as become necessary or proper under this Article.

(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the Association.

(f) Take such legal action as may be necessary to avoid payment of improper claims.

(g) Exercise, for the purposes of this Article and to the extent approved by the Commissioner, the powers of a domestic life or accident and health insurer, but in no case may the Association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired insurer.

(12) In the event the Association fails to discharge any of its powers and duties within a reasonable time, the Commissioner shall have all the powers and duties of the Association and shall have the full power and duties of its board of directors.

“§ 58-155.68. *Assessments.*—(1) For the purpose of providing the funds necessary to carry out the powers and duties of the Association, the board of directors shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessments after 30 days' written notice to the member insurers before payment is due. In the event that the member insurers do not within the time prescribed pay the assessment set by the board, the Association may file suit against such member insurers jointly and severally for the amounts necessary to

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carry out the responsibilities of the Association as determined by the board of directors.

(2) There shall be three classes of assessments, as follows:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the Association under G.S. 58-155.67 with regard to an impaired domestic insurer.

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the Association under G.S. 58-155.67 with regard to an impaired foreign or alien insurer.

(3) (a) The amount of any Class A assessment for each account shall be determined by the board. The amount of any Class B or C assessment shall be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bears to the premiums received by such insurer on all covered policies.

(b) Class A and Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this State by each assessed member insurer on policies covered by each account bears to such premiums received on business in this State by all assessed member insurers.

(c) Class B assessments for each account shall be made separately for each state in which the impaired domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired insurer on policies covered by such account bears to such premiums received in all such states by the impaired insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account bears to such premiums received on business in each state by all assessed member insurers.

(d) Assessments for funds to meet the requirements of the Association with respect to an impaired insurer shall not be made until necessary to implement the purposes of this Article. Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that the exact determinations may not always be possible.

(4) The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed four percent (4%) of such insurer's premiums in this State on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated, or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which such assessment is abated or deferred, shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the Association in either account, does not provide in any one

year in either account an amount sufficient to carry out the responsibilities of the Association, the necessary additional funds shall be assessed as soon thereafter as permitted by this Article. In the event a member insurer or a former member insurer fails or refuses to pay an assessment, the amount of such assessment shall be assessed against the other member insurers in a manner consistent with the basis for assessment set forth in this section, pending the recovery of any such unpaid assessment in order that the purpose of this Article may be effected.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to carry out during the coming year the obligations of the Association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future losses if refunds are impractical.

(7) The Association shall issue to each insurer paying an assessment under this Article a certificate of contribution, in a form prescribed by the Commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the Commissioner may approve.

(8) Any member insurer whose certificate of authority has been terminated for any reason whatever shall be liable for any assessment based on insolvencies occurring prior to such termination.

“§ 58-155.69. *Plan of operation.*—(1) (a) The Association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the Commissioner.

(b) If the Association fails to submit a suitable plan of operation within 90 days following the effective date of this Article or if at any time thereafter the Association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, formulate, adopt, promulgate and place into effect such plan of operation, amendments thereto, and such reasonable rules as are necessary or advisable to effectuate the provisions of this Article. Such plan and rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

(2) All member insurers shall comply with the plan of operation, and as a prerequisite to further engaging in writing such insurance in this State shall formally subscribe to and participate in the plan so approved.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this act:

- (a) Establish procedures for handling the assets of the Association.
- (b) Establish the amount and method of reimbursing members of the board of directors under G.S. 58-155.66.
- (c) Establish regular places and times for meetings of the board of directors.

- (d) Establish procedures for records to be kept of all financial transactions of the Association, its agents and the board of directors.
- (e) Establish the procedures whereby selections for the board of directors will be made and submitted to the Commissioner.
- (f) Establish any additional procedures for assessments under G.S. 58-155.68.
- (g) Contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

(4) The plan of operation may provide that any or all powers and duties of the Association except those under G.S. 58-155.67(11)(c) and G.S. 58-155.68, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this Association, or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the Association and shall be paid for its performance of any function of the Association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the Commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this Article.

“§ 58-155.70. *Duties and powers of the Commissioner.*—In addition to the duties and powers enumerated elsewhere in this Article:

(1) the Commissioner shall:

- (a) Notify the board of directors of the existence of an impaired insurer not later than three days after a determination of impairment is made or he received notice of impairment.
- (b) Upon request of the board of directors, provide the Association with a statement of the premiums in the appropriate states for each member insurer.
- (c) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the Association from the performance of its powers and duties under this Article.
- (d) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the Commissioner shall be appointed conservator.

(2) The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the Commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars (\$100.00) per month.

(3) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this Article.

“§ 58-155.71. *Prevention of impairments.*—To aid in the detection and prevention of insurer impairments:

(1) The board of directors shall, upon majority vote, notify the Commissioner of any information indicating member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board of directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations. The Commissioner may conduct such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the Commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors of the Association prior to its release to the public, but this shall not excuse the Commissioner from his obligation to comply with subsection (3). The Commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner but it shall not be open to public inspection prior to the release of the examination report to the public and shall be released at that time only if the examination discloses that the examined insurer is unable or potentially unable to meet its contractual obligations.

(3) The Commissioner shall report to the board of directors when he has reasonable cause to believe that any member insurer examined at the request of the board of directors may be unable or potentially unable to fulfill its contractual obligations.

(4) The board of directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(5) The board of directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer impairments.

(6) The board of directors shall, at the conclusion of any insurer impairment in which the Association carried out its duties under this Article or exercised any of its powers under this Article, prepare a report on the history and causes of such impairment, based on the information available to the Association, and submit such report to the Commissioner.

“§ 58-155.72. *Appointment of Association nominee.*—The Association may recommend a natural person to serve as a special deputy to act for the Commissioner and under his supervision in the liquidation, rehabilitation, or conservation, of any member insurer.

“§ 58-155.73. *Miscellaneous provisions.*—(1) Nothing in this Article shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the Association or its representatives are involved to discuss the activities of the Association in carrying out its powers and duties under G.S. 58-155.67. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired insurer, upon the termination of the impairment of the insurer, or

upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the Association to render a report of its activities under G.S. 58-155.74.

(3) For the purpose of carrying out its obligations under this Article, the Association shall be deemed to be a creditor of the impaired insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to G.S. 58-155.67(9), and any insured, beneficiary, or other person who has a valid claim against any impaired insurer shall likewise be deemed to be a creditor of the Association and its members, jointly and severally. All assets of the impaired insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired insurer as required by this Article. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired insurer.

(4) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders and policy owners of the impaired insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such impaired insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(b) No distribution to stockholders, if any, of an impaired insurer shall be made until and unless the total amount of assessments levied by the Association with respect to such insurer has been fully recovered by the Association.

(5) It shall be a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by this Article in the sale of insurance.

(6) (a) If an order for liquidation or rehabilitation of an insurer domiciled in this State has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d).

(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who as an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two or more persons are liable with

respect to the same distributions, they shall be jointly and severally liable.

- (d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.
- (e) If any person liable under paragraph (c) is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

“§ 58-155.74. *Examination of the Association; annual report.*—The Association shall be subject to examination and regulation by the Commissioner. The board of directors shall submit to the Commissioner, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the Commissioner and a report of its activities during the preceding calendar year.

“§ 58-155.75. *Tax exemptions.*—The Association shall be exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except taxes levied on real property.

“§ 58-155.76. *Immunity.*—There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the Association or its agents or employees, members of the board of directors, or the Commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this Article.

“§ 58-155.77. *Stay of proceedings; reopening default judgments.*—All proceedings in which the impaired insurer is a party in any court in this State shall be stayed 60 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the Association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or findings based on default the Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

“§ 58-155.78. *Hearings, review.*—(1) Any person aggrieved with respect to the operation of the Association may request a formal hearing and ruling by the board of directors on any alleged failure to comply with the plan of operation or any alleged improper act or ruling in the administration of the Association. The request for hearing must be made within 15 days after the date of the alleged violation or improper act or ruling. The hearing shall be held within 15 days after the receipt of the request. Except as may be otherwise provided by the board of directors the hearing shall be held by a panel appointed by the Chairman consisting of three board members entitled to vote. The ruling of a majority of the panel shall be deemed to be the formal action of the board unless the full board on its own motion shall modify or rescind the panel’s action.

(2) Any formal action of the board may be appealed to the Commissioner by filing notice of appeal with the Association and Commissioner within 30 days after the date of the board’s action. The Commissioner shall issue an order approving or disapproving the action or decision, or directing the board to reconsider the action.

(3) Any aggrieved person, any member insurer, or the Association may request a public hearing and ruling by the Commissioner on the provisions of the plan of operation, rules, or regulations approved by the Commissioner. The

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request for a hearing shall specify the matters to be considered. The hearing shall be held within 30 days after receipt of the request. The Commissioner shall give public notice of the hearing and the matters to be considered not less than 15 days in advance of the hearing date.

(4) In any hearing held pursuant to this Article the board of directors or the Commissioner, as the case may be, shall issue a ruling or order within 30 days after the close of the hearing.

(5) All rulings or orders of the Commissioner under this Article are subject to judicial review as provided in G.S. 58-9.3."

**Sec. 2.** Severability. If any provision or part of this Article or application thereof is held invalid, the invalidity shall not affect other provisions, parts or applications of the Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

**Sec. 3.** This Article shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

### S. B. 1341

### CHAPTER 1439

#### AN ACT TO AMEND THE NORTH CAROLINA JUNKYARD CONTROL ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 136-143(1), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following sentence:

"Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an 'automobile graveyard' within the meaning of this Article."

**Sec. 2.** G.S. 136-143(2), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following sentence:

"As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purpose of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities."

**Sec. 3.** G.S. 136-143(4), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following sentence:

"An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of 'junk' as defined by subsection 3 of Section 136-143 which had been derived or created as a result of industrial activity shall be deemed to be a junkyard within the meaning of this Article."

**Sec. 4.** G.S. 136-143(5), as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following sentence:

"As to highways under construction so designated as federal-aid primary highways pursuant to the above procedures, the highway shall be part of the federal-aid primary system for purposes of this Article on the date the location

of the highway has been approved finally by the appropriate federal or State authorities.”

**Sec. 5.** G.S. 136-143, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding at the end thereof the following additional provisions to read as follows:

“(6) ‘Visible’ means capable of being seen without visual aid by a person of normal visual acuity.

(7) ‘Unzoned area’ shall mean an area where there is no zoning in effect.”

**Sec. 6.** G.S. 136-145, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

“Enforcement provisions. Any person, firm, corporation or association that establishes, operates or maintains a junkyard within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, after the effective date of this Article as determined by G.S. 136-155, that does not come within one or more of the exceptions contained in G. S. 136-144 hereof, shall be guilty of a misdemeanor, and each day that the junkyard remains within the prohibited distance shall constitute a separate offense. In addition thereto, said junkyard is declared to be a public nuisance and the Board of Transportation may seek injunctive relief in the Superior Court of the county in which the offense is committed to abate the said nuisance and to require the removal of all junk from the prohibited area.”

**Sec. 7.** G.S. 136-146, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

“Removal of junk from illegal junkyards. Any junkyard established after the effective date of this Article as determined by G.S. 136-155, in violation of the provisions of this Article or rules and regulations issued by the Board of Transportation pursuant to this Article, shall be illegal and shall constitute a public nuisance. The Board of Transportation or its agents shall give 30 days’ notice to the owner of said junkyard to remove the junk or to make the junkyard to conform to the provisions of this Article or rules and regulations promulgated by the Board of Transportation hereunder. The Board of Transportation or its agents may remove the junk from the illegal junkyard at the expense of the owner if the said owner fails to act within 30 days after receipt of such notice. The Board of Transportation or its agents may enter upon private property for the purpose of removing junk from the junkyards prohibited by this Article without civil or criminal liability. Any person aggrieved by the decision declaring the junkyard illegal shall be granted the right to appeal the decision in accordance with the terms of the rules and regulations enacted by the Board of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision on the agency appeal.”

**Sec. 8.** G.S. 136-147, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by deleting the date “July 6, 1967,” in the second line of that section and, in its place, by adding the following words:

“...the effective date of this Article as determined by G.S. 136-155. . . .”

**Sec. 9.** G.S. 136-149, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

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“Permit required for junkyards. No person shall establish, operate or maintain a junkyard any portion of which is within 1,000 feet of the nearest edge of the right-of-way of the interstate or primary system without obtaining a permit from the Board of Transportation or its agents pursuant to the procedures set out by the rules and regulations promulgated by the Board of Transportation. No permit shall be issued under the provisions of this section for the establishment, operation or maintenance of a junkyard within 1,000 feet to the nearest edge of the right-of-way of interstate or primary system except those junkyards which conform to one or more of the exceptions of Section 136-144. The permit shall be valid until revoked for the nonconformance of this Article or rules and regulations promulgated by the Board of Transportation thereunder. Any person aggrieved by the decision of the Board of Transportation or its agents in refusing to grant or revoking a permit may appeal the decision in accordance with the rules and regulations enacted by the Board of Transportation pursuant to this Article to the Secretary of Transportation who shall make the final decision upon the agency appeal. The Board of Transportation shall have the authority to charge reasonable fees to defray the costs of administering the permit procedures under this Article.

**Sec. 10.** The Junkyard Control Act, Article 12 of Chapter 136, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding a new section, G.S. 136-149.1, immediately following G.S. 136-149 and immediately preceding G.S. 136-150, such new section to read as follows:

“Judicial Review. Any person who is aggrieved by a final decision of the Secretary of Transportation after exhausting all administrative remedies made available to him by rules and regulations enacted pursuant to this Article is entitled to judicial review of such decision under this Article. In order to obtain judicial review of the Secretary of Transportation’s decision under this Article, the person seeking review must file a petition in the Superior Court of the county in which the junkyard is located within 30 days after written copy of the decision of the Secretary of Transportation is served upon the person seeking review. Failure to file such a petition within the time stated shall operate as a waiver of the right of such person to review under this Chapter.

The petition shall state explicitly what exceptions are taken to the decisions of the Secretary of Transportation and what relief petitioner seeks. Within 10 days after the petition is filed with the court, the person seeking the review shall serve copies of the petition by registered mail, return receipt requested, upon the Board of Transportation or the Secretary of Transportation. Within 30 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the Secretary of Transportation shall transmit to the reviewing court a certified copy of the written decision.

At any time before or during the review proceeding, the aggrieved party may apply to the reviewing court for an order staying the operation of the decision of the Secretary of Transportation pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper. The review of the decision of the Secretary of Transportation under this Article shall be conducted by the court without a jury and shall hear the matter *de novo* pursuant to the rules of evidence as applied in the general court of justice. The court, after hearing the matter may affirm, reverse or modify the decision if the decision is:

1. In violation of constitutional provisions; or
2. Not made in accordance with this Article or rules or regulations promulgated by the Board of Transportation;
3. Affected by other error or law.

The party aggrieved shall have the burden of showing that the decision was violative of one of the above.

A party to the review proceedings, including the agency, may appeal to the appellate division from the final judgment of the Superior Court under the rules of procedure applicable in other civil cases. The appealing party may apply to the Superior Court for a stay for its final determination or a stay of the administrative decision, whichever shall be appropriate, pending the outcome of the appeal to the appellate division.”

**Sec. 11.** G.S. 136-151, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by rewriting the same to read as follows:

“Regulations of Junkyards. The Board of Transportation is authorized to promulgate rules and regulations in the form of ordinances governing:

(1) The establishment, operation and maintenance of junkyards permitted in Section 136-144 which shall include, but not be limited to, rules and regulations for determining unzoned industrial areas for the purpose of this Article.

(2) The specific requirements and procedures for obtaining a permit for junkyards as required in Section 136-149 and for the administrative procedures for appealing a decision at the agency level to refuse to grant or in revoking a permit previously issued.

(3) The administrative procedures for appealing a decision at the agency level to declare any junkyard illegal and a nuisance as pursuant to Section 136-146.

(4) The specific requirements governing the location, planting, construction and maintenance of material used in the screening or fencing required by this Article, all as may be necessary to carry out the policy of the State as declared in this Article.

The Board of Transportation, in its discretion, may delegate to the Secretary of Transportation the authority to promulgate such rules and regulations on its behalf.”

**Sec. 12.** G.S. 136-155, as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes, is amended by adding thereto the words “United States” after the words “an agreement with the” on the sixth line of that section.

**Sec. 13.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1392

**CHAPTER 1440**

AN ACT TO AMEND G.S. 58-173.27 OF THE FAIR ACCESS TO INSURANCE REQUIREMENTS, BEING ARTICLE 18B, CHAPTER 58 OF THE GENERAL STATUTES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-173.27, as the same appears in the 1973 Cumulative Supplement of the 1965 Replacement Volume 2B of the General Statutes, is hereby amended by deleting on line two the number "1974" and by inserting in lieu thereof the number "1977".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1170

**CHAPTER 1441**

AN ACT TO PROVIDE FEDERAL FOOD STAMP PROGRAMS IN ALL COUNTIES OF THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 108 of the General Statutes is hereby amended by adding Article 4 immediately following G.S. 108-86 and to be entitled: "Family Food Assistance Program." and to read as follows:

"Article 4. Family Food Assistance Program.

"§ 108-87. *Creation of food stamp program.*—The Department of Human Resources may, not later than July 1, 1974, place into operation in each of the several counties of the State a Food Stamp Program as authorized by the Congress of the United States. The Department of Human Resources is designated as the State agency responsible for the supervision of such programs. The boards of county commissioners through the county departments of social services are held responsible for the administration and operation of the programs.

"§ 108-88. *Determination of eligibility.*—Any person who believes that he or another person is eligible to receive food stamp assistance may submit an application for such assistance to the county department of social services in the county in which the applicant resides. The application shall be made in such form and shall contain such information as the Social Services Commission may require. Upon receipt of an application for food stamp assistance, the county department of social services shall make a prompt evaluation or investigation of the facts alleged in the application in order to determine the applicant's eligibility for such assistance and to obtain such other information as the Department of Human Resources may require. Upon the completion of such investigation, the county department of social services shall, within a reasonable period of time, determine eligibility.

"§ 108-89. *Appeals.*—If an application is not acted upon by the county department of social services within a reasonable time after the filing of the application, or is denied in whole or in part, or if an award of food stamp assistance is modified or cancelled, the applicant or recipient may appeal to the Department of Human Resources in the manner and form prescribed by the rules and regulations of the Social Services Commission. Each applicant or recipient shall be notified of his right to appeal when applying for assistance and

upon any subsequent action of the county department of social services on his case. Any food stamp assistance applicant or recipient who is dissatisfied with the final adverse decision of the Department of Human Resources may file a petition within 30 days after receipt of written notice of such decision for a hearing in the Superior Court of Wake County or of the county from which the case arose. Such court shall set the matter for a hearing within 30 days after receipt of such petition and after reasonable written notice to the Department of Human Resources, the county department of social services, and the appellant. The court may take testimony and examine into the facts of the case to determine whether the appellant is entitled to food stamp assistance under federal and State law, and under the rules and regulations of the Social Services Commission. The court may affirm, reverse or modify the final order of the Department of Human Resources.

“§ 108-90. *Penalties for false representation.*—(a) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation or by impersonation, or in any manner not authorized by this Article or the regulations issued pursuant thereto, any food coupons to which he is not entitled or food coupons of a greater value than that to which he is justly entitled, shall be guilty of a misdemeanor, and upon conviction or plea of guilty shall be fined or imprisoned or both in the discretion of the court.

(b) Whoever presents, or causes to be presented, food coupons for payment or redemption, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Article or the regulations issued pursuant to this Article shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both in the discretion of the court.

(c) Whoever receives any food coupon for any consumable item knowing that such food coupon was procured fraudulently under subsections (a) and/or (b) of this section shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.

(d) Whoever receives any food coupon for any consumable item whose exchange is prohibited by the United States Department of Agriculture shall be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined or imprisoned or both at the discretion of the court.”

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1248 **CHAPTER 1442**

AN ACT TO MAKE APPROPRIATIONS TO THE DIVISION OF MENTAL HEALTH SERVICES, DEPARTMENT OF HUMAN RESOURCES, TO PROVIDE FOR A MANAGEMENT INFORMATION SYSTEM AND PLANNING FOR A MODEL MENTAL HEALTH SYSTEM.

*The General Assembly of North Carolina enacts:*

**Section 1.** In addition to all other funds appropriated by the 1974 Session of the General Assembly for the support of Area Mental Health Programs, there is hereby appropriated out of the General Fund of the State the sum of five hundred eighty-one thousand six hundred twenty-two dollars (\$581,622) to the Division of Mental Health Services, Department of Human

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Resources, for a management information system and planning for a model mental health system.

**Sec. 2.** The expenditure of the funds herein appropriated shall not be subject to any of the limitations or restrictions on expenditure of funds contained in Chapter 122 of the General Statutes.

**Sec. 3.** The Mental Health Care Study Commission established and structured by 1973 General Assembly Resolution 80 and 1973 Session Law Chapter 806 is hereby revived and authorized to continue in existence until July 1, 1975.

**Sec. 4.** The continued Mental Health Care Study Commission shall have all of the powers and duties of the original Study Commission as they are necessary to continue the original study, assist in the implementation of the original Study Commission recommendations, and plan further activity on the subject of the study.

**Sec. 5.** Members of the original Mental Health Care Study Commission shall remain members of the continued Study Commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued Study Commission because they are no longer members of the General Assembly, but the person holding the office authorized to make the original appointment may replace them and any other member of the Study Commission with new appointees since they serve at the pleasure of these officers.

**Sec. 6.** Members and staff of the continued Mental Health Care Study Commission shall receive the same compensation and expenses as under the original authorization in 1973 General Assembly Resolution 80, and funding for the continued Study Commission shall be from the same source as authorized in that original resolution.

**Sec. 7.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## S. B. 1249

## CHAPTER 1443

AN ACT TO AMEND ARTICLE 1B OF CHAPTER 113 OF THE GENERAL STATUTES, ALLOWING INCREASED FLEXIBILITY IN STATE AID FOR AVIATION IMPROVEMENTS.

Whereas, the Department of Transportation and Highway Safety is vitally interested in promoting the further development and improvement of air routes, airport facilities and landing fields, and to stimulate the development of aviation commerce; and

Whereas, the economic growth of North Carolina depends to a great extent on the development throughout the State of modern airports and aviation facilities; and

Whereas, the Department of Transportation and Highway Safety is vitally interested in the development of aviation as a major mode of transportation serving the people of North Carolina; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 113-28.6(1) shall be rewritten to read as follows:

“(1) The Department of Transportation and Highway Safety shall promote the further development and improvement of air routes, airport facilities, seaplane bases, heliports, protect their approaches, and stimulate the development of aviation commerce and air facilities. In exercising this power, the Department of Transportation and Highway Safety shall prepare and develop goals, objectives, standards and policies for the most efficient and economical expenditure of such State funds as may be appropriated for purposes of this Article.”

**Sec. 2.** G.S. 113-28.7 shall be rewritten to read as follows:

“§ 113-28.7. *Activities eligible for State aid.*—Loans and grants of State funds may be made for the planning, acquisition, construction, or improvement of any airport, seaplane base, or heliport owned or controlled, or which will be owned and controlled by any city, county or public airport authority acting by itself or jointly with any other city or county. An airport, seaplane base, or heliport development project or activity eligible for State aid under this Article shall also be deemed to include projects such as air navigation facilities, aviation easements, and the acquisition of land, lighting, marking, security items, terminal improvements, and the elimination of aviation safety hazards.”

**Sec. 3.** G.S. 113-28.8 shall be rewritten to read as follows:

“§ 113-28.8. *Limitations on State financial aid.*—Grants and loans of funds authorized by this Article shall be subject to the following conditions and limitations:

(1) Loans and grants may be for such projects, activities, or facilities as would in general be eligible for approval by the Federal Aviation Administration or its successor agency or agencies. Further, airport terminal and security areas, seaplane bases, and heliports are also eligible for State financial aid.

(2) Loans and grants of State funds shall be limited to a maximum of fifty percent (50%) of the nonfederal share of the total cost of any project for which aid is requested, and shall be made only for the purpose of supplementing such other funds, public or private, as may be available from federal or local sources provided; however, using Department of Transportation personnel and one hundred percent (100%) State funding in its discretion, the Department of Transportation and Highway Safety may purchase, install, and maintain navigational aids necessary for the safe, efficient use of airspace, mark serviceable runways and taxiways and correct minor safety deficiencies which are determined to be hazardous to the flying public.

(3) Loans and grants of State funds shall be made from General Assembly appropriations specifically designated for aviation improvement, and from no other source.

**Sec. 4.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1314

CHAPTER 1444

AN ACT TO PERMIT SMALL ELECTRICAL DISTRIBUTION COMPANIES TO CHARGE THE SAME RATES FOR THE SAME SERVICES AS THE UTILITY COMPANIES FROM WHICH THEY PURCHASE THEIR ELECTRICITY AT WHOLESALE.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 62-134 is hereby amended by adding thereto a new subsection (d) to read as follows:

“(d) Notwithstanding the provisions of this Article, any public utility engaged solely in distributing electricity to retail customers, which electricity has been purchased at wholesale rates from another public utility, an electric membership corporation or a municipality, may in its discretion, and without the necessity of public hearings as in this section is otherwise provided, elect to adopt the same retail rates to customers charged by the public utility, electric membership corporation or municipality from whom the wholesale power is purchased for the same service, unless the North Carolina Utility Commission finds upon a hearing, either on its own initiative or upon complaint, that the rate of return earned by such utility upon the basis of such rates is unjust and unreasonable. In such a proceeding the burden of proof shall be upon the electrical distribution company.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1320

CHAPTER 1445

AN ACT TO AMEND G.S. 20-19 PERTAINING TO PERIOD OF SUSPENSION FOR D.U.I.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-19(d) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by striking from lines 14, 15 and 16 the words “been of good behavior for the past two years and that his conduct and attitude are such as to entitle him to favorable consideration” beginning immediately after the word “has” in line 14 and ending immediately before the words “and upon” in line 16 and inserting in lieu thereof the words “not been convicted within the past two years with a violation of any provision of the motor vehicle laws, liquor laws or drug laws of North Carolina or any other state and is not an excessive user of alcohol or drugs”.

**Sec. 2.** G.S. 20-19(e) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by striking from lines 13, 14 and 15 the words “been of good behavior for the past three years and his conduct and attitude are such as to entitle him to favorable consideration” beginning on line 14 immediately after the word “has” and ending on line 15 immediately before “. When”; and inserting in lieu thereof the words “not been convicted within the past three years with a violation of any provision of the motor vehicle laws, liquor laws or drug laws of North Carolina or any other state and is not an excessive user of alcohol or drugs”.

**Sec. 3.** G.S. 20-19(d) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by striking from lines 6, 7, and 8 the words “been of good behavior for the past two years and that his conduct and attitude are such as to entitle him to favorable consideration” beginning immediately after the word “has” in line 6 and ending immediately before the words “and upon” in line 8 and inserting in lieu thereof the words “not been convicted within the past two years with a violation of any provision of the motor vehicle laws, liquor laws or drug laws of North Carolina or any other state and is not an excessive user of alcohol or drugs.”

**Sec. 4.** G.S. 20-19(e) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by striking from lines 6, 7 and 8 the words “been of good behavior for the past three years and his conduct and attitude are such as to entitle him to favorable consideration” beginning on line 6 immediately after the word “has” and ending on line 8 immediately before the word “provided” and inserting in lieu thereof the words “not been convicted within the past three years with a violation of any provision of motor vehicle laws, liquor laws or drug laws of North Carolina or any other state and is not an excessive user of alcohol of drugs”.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1016

## CHAPTER 1446

AN ACT TO AMEND VARIOUS SECTIONS OF THE GENERAL STATUTES TO MAKE TECHNICAL CORRECTIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 115-25 as the same appears in the 1973 Cumulative Supplement to Volume 3A of the General Statutes of North Carolina is hereby amended so that the second unnumbered paragraph reads as follows:

“Membership on a board of education is hereby declared to be an office that, with the exceptions provided above, may be held concurrently with any appointive office, pursuant to Article VI, Section 9 of the Constitution, but any person holding an elective office shall not be eligible to serve as a member of a county or city board of education.”

**Sec. 2.** G.S. 58-155.49(d) as the same appears in the 1973 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina is hereby amended by deleting from the seventh line thereof the words “or (of)” and inserting in lieu thereof the word “of”.

**Sec. 3.** G.S. 25A-33(3) as the same appears in the 1973 Cumulative Supplement to Volume 1D of the General Statutes of North Carolina is hereby amended by deleting from the second line thereof the words “of (or)” and inserting in lieu thereof the word “or”.

**Sec. 4.** G.S. 7A-112(b) as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes of North Carolina is amended by deleting from the seventh line thereof the word “(dollars)” and inserting in lieu thereof the word “dollars”.

**Sec. 5.** G.S. 90-92(b) as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina is hereby amended by deleting from the fifth line thereof the words “of (on)” and inserting in lieu thereof the word “on”.

**Sec. 6.** G.S. 90-112(b) as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes of North Carolina is hereby amended by deleting from the first line thereof the words “for (to)” and inserting in lieu thereof the word “to”.

**Sec. 7.** G.S. 29-12 is hereby amended by deleting from the last line thereof the letters and figures “G.S. 116-21” and inserting in lieu thereof the letters and figures “G.S. 116A-2”.

**Sec. 8.** G.S. 133-14(3) as the same appears in the 1973 Cumulative Supplement to Volume 3B of the General Statutes of North Carolina is hereby amended by deleting the letters and figures “G.S. 136-8 (G.S. 133-8)” and inserting in lieu thereof the letters and figures “G.S. 133-8”.

**Sec. 9.** G.S. 55B-14 as the same appears in the 1973 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina is hereby amended by inserting in line 8 immediately following the word and figure “Chapters 83,” the figure “89,”.

**Sec. 10.** G.S. 52-6(c) as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes of North Carolina is hereby rewritten to read as follows:

“(c) Such certifying officer must be a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment and examination are made and such officer must not be a party to the contract.”

**Sec. 11.** G.S. 47-7 as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes of North Carolina is hereby amended by deleting from the third and fourth lines thereof the words “and the acknowledgment of any married woman may be taken”.

**Sec. 12.** G.S. 165-18(b) is hereby amended by deleting from line six thereof the word “section” and inserting in lieu thereof the word “subsection”.

**Sec. 13.** G.S. 162A-45 is hereby amended by deleting from the last line thereof the letters and figures “G.S. 159-28” and inserting in lieu thereof the letters and figures “G.S. 159-31”.

**Sec. 14.** G.S. 143-215.41 as the same appears in the 1973 Cumulative Supplement to Volume 3C is hereby amended by deleting from the second line thereof the word “of” where it first appears in said line and by inserting in lieu thereof the word “or”.

**Sec. 15.** G.S. 31-40 is hereby amended by deleting from lines 10 and 11 thereof the words “and also to all rights of entry for conditions broken, and other rights of entry;” and by inserting in lieu thereof the words “and also to all rights of entry for conditions broken, whether any such condition has or has not been broken at the testator’s death, all other rights of entry, and possibilities of reverter;”.

**Sec. 16.** G.S. 149-1 is hereby amended by capitalizing the first letter of the word “old” as it appears in line nine thereof.

**Sec. 17.** G.S. 8-5 as the same appears in the 1973 Cumulative Supplement to the General Statutes of North Carolina is hereby amended on

line three by deleting the words “certified by the Mayor” and inserting in lieu thereof the words and figures “proven as provided in G.S. 160A-79”.

**Sec. 18.** G.S. 33-69.1(c) as the same appears in the 1973 Cumulative Supplement to Volume 2A of the General Statutes of North Carolina is hereby amended by deleting from the eighth line thereof the figure “21” and inserting in lieu thereof the figure “18”.

**Sec. 19.** G.S. 1-339.71(a) is hereby amended by deleting from the third line thereof the letters and figures “G.S. 105-391” and inserting in lieu thereof the letters and figures “G.S. 105-374(q)(6)”.

**Sec. 20.** G.S. 105-198 is hereby amended by deleting from the third line thereof the words and figures “Sec. 3, Article V” and inserting in lieu thereof the words and figures “Sec. 2(2), Article V”.

**Sec. 21.** G.S. 20-77(b) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by deleting from line eight thereof the word “years” and inserting in lieu thereof the word “year’s” and by deleting from line seventeen the word “age” and inserting in lieu thereof the word “ages”.

**Sec. 22.** G.S. 7A-134 as the same appears in the 1973 Cumulative Supplement to Volume 1B of the General Statutes of North Carolina is hereby amended by deleting from the end thereof the letters and figures “G.S. 110-33” and inserting in lieu thereof the letters and figures “G.S. 110-23”.

**Sec. 23.** G.S. 20-84.2(d) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by deleting from the fourth line thereof the word “county” and inserting in lieu thereof the word “country”.

**Sec. 24.** G.S. 153-65(d) as the same appears in the 1973 Cumulative Supplement to Volume 3C of the General Statutes of North Carolina is hereby amended by deleting from the sixth line of the seventh paragraph thereof the words “subsection (d) (subsection (c))” and inserting in lieu thereof the words “subsection (c)”.

**Sec. 25.** G.S. 153A-149(d) as the same appears in Pamphlet No. 8 of the 1973 Advanced Legislative Service is hereby amended by deleting from the sixth line of the seventh paragraph thereof the words “subsection (d) (subsection (c))” and inserting in lieu thereof the words “subsection (c)”.

**Sec. 26.** G.S. 158-12 as the same appears in the 1973 Cumulative Supplement to Volume 3D of the General Statutes is hereby amended by deleting the third unnumbered paragraph thereof.

**Sec. 27.** The third unnumbered paragraph of G.S. 148-12 as repealed by Section 44 of Chapter 803 of the 1973 Session Laws is hereby reenacted. G.S. 148-12(c) is hereby amended by deleting the word “to” after the words “while under a sentence” and by placing in lieu thereof the following word “of”.

**Sec. 28.** G.S. 20-16.2(g) as the same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes of North Carolina is hereby amended by deleting from the second line thereof the letters and numbers “G.S. 20-16.3” and inserting in lieu thereof the letters and numbers “G.S. 20-17”.

**Sec. 29.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1372

CHAPTER 1447

AN ACT TO AUTHORIZE THE DEVELOPMENT OF A BICYCLE AND BIKEWAY PROGRAM IN THE STATE OF NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

“Part 1. General Provisions.

**Section 1.** This act may be cited as the North Carolina Bicycle and Bikeway Act of 1974.

**Sec. 2.** Definitions. As used in this act, except where the context clearly requires otherwise, the words and expressions defined in this section shall be held to have the meanings here given to them:

(1) Bicycle: A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

(2) Bikeway: A thoroughfare suitable for bicycles, and which may either exist within the right-of-way of other modes of transportation, such as highways, or along a separate and independent corridor.

(3) Program: North Carolina Bicycle and Bikeway Program.

(4) Department: North Carolina Department of Transportation and Highway Safety.

**Sec. 3.** Findings. The General Assembly hereby finds that it is in the public interest, health, safety, and welfare for the State to encourage and provide for the efficient and safe use of the bicycle; and that to coordinate plans for bikeways most effectively with those of the State and local governments as they affect roads, streets, schools, parks and other publicly owned lands, abandoned roadbeds and conservation areas, while maximizing the benefits from the use of tax dollars, a single State agency, eligible to receive federal matching funds, should be designated to establish and maintain a State-wide bikeways program.

**Sec. 4.** Program Development. The Department is designated as such State agency, responsible for developing and coordinating the program.

**Sec. 5.** Duties. The Department will:

(1) Assist and cooperate with local governments and other agencies in the development and construction of local and regional bikeway projects;

(2) Develop and publish policies, procedures, and standards for planning, designing, constructing, maintaining, marking, and operating bikeways in the State; for the registration and security of bicycles; and for the safety of bicyclists, motorists and the public;

(3) Develop bikeway demonstration projects and safety training programs;

(4) Develop and construct a State bikeway system.

**Sec. 5.** Bikeways may be designated along and upon the public roads.

**Sec. 6.** Funds. The General Assembly hereby authorizes the Department to include needed funds for the program in its annual budgets for fiscal years after June 30, 1975, subject to the approval of the General Assembly.

The Department is authorized to spend any federal, State, local or private funds available to the Department and designated for the accomplishment of this act. Cities and towns may use any funds available.

**Sec. 7.** Effective Date. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1396      **CHAPTER 1448**

AN ACT TO PROVIDE FOR SECURING COMPETITIVE PROPOSALS  
FOR LEASING OF SPACE BY THE STATE.

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 6 of Chapter 146, as it appears in Volume 3C of the General Statutes, is hereby amended by adding a new section to be designated G.S. 146-23.1 to read as follows:

“§ 146-23.1. *Proposals to be secured for leases.*—(a) When it becomes necessary for any agency of the State to lease space within any city or county of the State, where the rental exceeds seven thousand five hundred dollars (\$7,500) per year or the term exceeds three years, said agency shall prepare a set of specifications of its needs for the space, and shall advertise said specifications in a newspaper of general circulation in the city for proposals from prospective lessors of said space. The advertisement shall be run for at least three consecutive weeks, and shall provide that proposals shall be received for at least 20 days from the date of the last advertisement; provided, the provisions of G.S. 146-23.1 do not apply to property owned by governmental agencies and leased to other governmental agencies.

(b) After receipt of the proposals, the agency may then negotiate with the prospective lessors for leasing of the needed space, taking into account not only the rental offered, but the type of space, the location, its suitability for the purposes, services offered by the lessor, and all other relevant factors. The agency shall then present its application to the Department of Administration for the proposed lease as provided by G.S. 146-23; provided, however, that if the lowest rental proposal is not presented, a statement of justification must be submitted to the Department of Administration.

(c) The Department of Administration shall then investigate as provided by this Article, and must present the proposed transaction to the Council of State for its consideration as provided by this Article. In the event the lowest rental proposed is not presented to the Council of State, that body may require a statement of justification, and may examine all proposals.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1446      **CHAPTER 1449**

AN ACT TO INCREASE THE ALLOWABLE MAXIMUM GROSS  
WEIGHT OF VEHICLES HAVING FIVE OR MORE AXLES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-118, as the same appears in Volume 1C of the General Statutes, is amended by striking out the words “seventy thousand pounds” from line 6 of the paragraph numbered (10) and by inserting in lieu thereof the following:

“the maximum weight given for the respective distance between the first and

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last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between the extremes of any axles	Maximum weight in pounds on any 5-axle group
35 or under	<u>70,000</u>
36	<u>70,500</u>
37	<u>71,000</u>
38	<u>72,000</u>
39	<u>72,500</u>
40	<u>73,000</u>
41	<u>73,500</u>
42	<u>74,000</u>
43	<u>75,000</u>
44	<u>75,500</u>
45	<u>76,000</u>

provided the tandem axle weight shall not exceed 35,700 pounds where the gross weight of any vehicle or combination of vehicles having five or more axles exceeds 73,000 pounds."

**Sec. 2.** G.S. 20-118, as the same appears in Volume 1C of the General Statutes, is further amended by inserting at the end of the next to the last paragraph, immediately following the words "two hundred eighty pounds" the following:

"on the National System of Interstate and Defense Highways unless changed by federal law".

**Sec. 3.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1450

CHAPTER 1450

AN ACT TO AMEND G.S. 160A-167 TO PROVIDE THAT COUNTY ABC BOARDS MAY PROVIDE FOR THE DEFENSE OF THEIR EMPLOYEES IN CIVIL OR CRIMINAL ACTIONS INVOLVING THEIR EMPLOYMENT.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 160A-167, as the same appears in the 1973 Cumulative Supplement to Volume 3D of the General Statutes, is amended on lines 3, 7, 8 and 13, after the word "city" and before the word "county" by deleting the word "or", inserting a comma in lieu thereof, and inserting the words "or County Alcoholic Beverage Control Board" after the word "county".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1486

**CHAPTER 1451**

**AN ACT TO REQUIRE THE KEEPING OF LOBBYING RECORDS IN THE LEGISLATIVE LIBRARY.**

*The General Assembly of North Carolina enacts:*

**Section 1.** Article 9 of Chapter 120 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 120-44.1. *Information furnished members of the General Assembly.*— Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each member of the General Assembly and the State Legislative Library a list of all persons who have registered as a lobbyist and whom they represent. A supplemental list shall be furnished periodically each 20 days thereafter as the session progresses.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2109

**CHAPTER 1452**

**AN ACT TO AMEND G.S. 18A-34 AND 18A-35 RELATING TO THE SALE, TRANSPORTATION AND POSSESSION OF UNFORTIFIED WINE.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 18A-35(b) is amended to read:

“(b) Whenever any person desires to purchase more than five gallons but not exceeding twenty gallons of unfortified wine at one time, he shall first obtain a purchase-transportation permit from the chairman of the local board, a member of the local board, or the general manager or supervisor of the Local Board of Alcoholic Control. No permit shall be issued by any authorized person to:

- (1) Persons not of good character; or
- (2) Persons not sufficiently identified, if unknown to the issuing person; or
- (3) Persons known or shown to be alcoholics or bootleggers.

**Sec. 2.** G.S. 18A-35(c) is amended by deleting the word “five” in line three and inserting the word “twenty”.

**Sec. 3.** G.S. 18A-35(f) is amended by deleting the words “Purchase Permit” as it appears therein, and inserting the words “Purchase-Transportation Permit” and deleting the word “five” on the next line and inserting the word “twenty”.

**Sec. 4.** G.S. 18A-34(d) is amended by changing the last sentence to read as follows:

“Nor may more than five gallons of unfortified wine nor more than one gallon of fortified wine be sold at any one time to any one person, except as authorized by permit.”

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1481

CHAPTER 1453

AN ACT APPROPRIATING FUNDS TO THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE FOR THE ESTABLISHMENT OF A WESTERN FARMERS MARKET AT ASHEVILLE, NORTH CAROLINA, AND APPROPRIATING FURTHER FUNDS FOR THE OPERATION THEREOF.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated out of the General Fund of the State to the North Carolina Department of Agriculture, in addition to all other appropriations, the sum of one million dollars (\$1,000,000) for the purpose of obtaining land and constructing thereon facilities to be operated by said Department as a Western North Carolina Farmers Market.

**Sec. 2.** This act shall be effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1778

CHAPTER 1454

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSURANCE FOR ADMINISTERING THE MOTOR VEHICLE ACCIDENT REPARATIONS AND NO-FAULT INSURANCE ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Insurance out of the General Fund of the State for fiscal year 1974-75 the sum of forty-five thousand one hundred fifteen dollars (\$45,115) for three positions and their related costs and for increased travel by field representatives to administer the provisions of an act to provide for uniform regulation of the Bail Bond Business throughout the State. This section shall become effective upon the ratification of an act to provide for uniform regulation of the Bail Bond Business throughout the State.

**Sec 2.** Subject to the provisions of Section 1, this act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1832

CHAPTER 1455

AN ACT TO AMEND CHAPTER 1146 OF THE 1971 SESSION LAWS RELATING TO THE CAPITAL IMPROVEMENT FUNDS FOR ANSON TECHNICAL INSTITUTE AND THE DEPARTMENT OF COMMUNITY COLLEGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 2.5 of Chapter 1146 of the 1971 Session Laws is hereby amended by deleting the words "Wadesboro, North Carolina," which appear in the fourth line thereof and inserting in lieu thereof the following words: "Anson County, North Carolina,".

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1876      **CHAPTER 1456**

AN ACT TO INCREASE THE TRAVEL ALLOWANCE PER MILE FOR STATE EMPLOYEES AND TO APPROPRIATE ADDITIONAL FUNDS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 138-6(a)(1), as the same appears in the 1973 Cumulative Supplement to Volume 3C, is hereby amended by deleting the words and figures “eleven cents (11¢)” and inserting in lieu thereof the words and figures “fifteen cents (15¢)”.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1999      **CHAPTER 1457**

AN ACT TO CREATE A STATE FARM OPERATIONS COMMISSION WITHIN THE DEPARTMENT OF AGRICULTURE.

Whereas, it is the intent of this legislation that farms currently operated by the Department of Human Resources and the Department of Correction, which are not being used in the execution of the statutory duties of these departments, continue to be operated as farms or rented until such time as the General Assembly of North Carolina, or some other proper agency of government, can ascertain the best use of such farm land; and

Whereas, it is the intent of this legislation to prevent sale of such farms to the public until the 1977 Session of the General Assembly has considered recommendations made pursuant to this act; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Creation of State Farm Operations Commission. There is hereby created a policy-making body within the Department of Agriculture which shall be known as the State Farm Operations Commission. The State Farm Operations Commission shall consist of a member of the Board of Agriculture elected by a vote of the Board of Agriculture; the Dean, School of Agriculture and Life Sciences, North Carolina State University; the Dean, School of Forest Resources, North Carolina State University; the Secretary of Human Resources; the Secretary of Correction; the Chairman of the Committee of Agriculture of the House of Representatives and the Chairman of the Committee of Agriculture of the Senate; or their permanent designees. Each member of the State Farm Operations Commission shall be deemed serving on the Commission in an ex-officio capacity to his office and shall continue to serve until his successor has been duly qualified.

**Sec. 2.** Powers and duties of State Farm Operations Commission. The State Farm Operations Commission is authorized, empowered and directed to develop policies for the use of all agricultural and timber lands now under the control of the Department of Human Resources and the Department of Correction, and any other farm or timber lands, which are not being used in the performance of the statutory functions of any State department or agency. The Department of Human Resources and the Department of Correction are authorized, empowered and directed to determine the extent of such lands under the control of said Departments that are not being used for their statutory programs and said Department shall transfer the control and use of all lands not

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being used for such statutory programs to the Governor and Council of State on or before July 1, 1974. The Governor and the Council of State shall transfer such lands, buildings, equipment and animals as are to be used for agriculture in its broadest sense, including forestry, to the Department of Agriculture. The transfer of the farms shall include all farm machinery, trucks and farm equipment used on such farms. Any State Department may request of the Governor and Council of State to withdraw such land from the Department of Agriculture and to return such land for use by such Department in performance of the statutory programs of such Department in the manner provided by law.

The Department of Agriculture may rent or lease such farms, in the manner provided by law, and may from time to time make recommendations to the General Assembly as to the ultimate use of such farms for the best interest of the State.

The Department of Agriculture, or any other State Department, may apply to the Governor and Council of State for approval of other State use of such land when such other use would better serve the interest of the general public.

The Department of Administration shall consider the long range needs of the State and shall submit recommendations no later than the 1977 Session of the General Assembly as to whether the interest of the State would be served by continuing the operation of the farms, or some of them, or by renting, selling or otherwise utilizing the said farms or some of them.

The State Farm Operations Commission shall be responsible for promulgating rules and regulations for operating the lands and resources assigned to it in such a manner that the public interest is maximized. Farm production shall be directed to meet the institutional needs of the State. In the interest of efficiency of operation and in times of abundance beyond anticipation, it may be to the State's benefit to offer for sale farm products not required for institutional needs.

**Sec. 3.** Powers and duties of Commissioner of Agriculture. The Commissioner of Agriculture is authorized and directed to implement, carry out and administer the policies and programs adopted by the State Farm Operations Commission.

**Sec. 4.** Budgetary Organization. All funds currently recommended or appropriated to the Department of Human Resources and Department of Correction for the maintenance and operation of farms and timber lands not being used for performance of statutory duties are hereby transferred to the Department of Agriculture to be used by the State Farms Operations Program. The Department of Agriculture shall provide all budgetary, staffing and support services.

**Sec. 5.** Use of Products. The Department of Human Resources and the Department of Corrections shall have priority on food products and services from the State Farm Operations Program which are deemed essential to their institutional needs. The value of such food products and services provided by the State Farm Operations Program shall be based on mutually negotiated agreements between the State Farm Operations Commission and the respective agencies. To the extent food products are available from the State Farm Operations Program, the Department of Human Resources and Department of Correction shall use such products, unless provided by other State owned farm operations. In event of dispute between Departments, the Governor and

Advisory Budget Commission shall determine the forms of such agreement and method of payment, either by cash or book transfer.

**Sec. 6.** Expenses of Commission Members. Expenses incurred by members of the State Farm Operations Commission in the performance of those duties herein imposed shall be reimbursed, subject to statutory limitations, from the State Farm Operations Program budget.

**Sec. 7.** G.S. 66-58(b), as the same appears in the 1973 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by renumbering subdivision (14) as (15) and inserting a new subdivision (14) to read as follows:

“(14) State Farm Operations Commission.”

**Sec. 8.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 2178                      CHAPTER 1458**

AN ACT TO APPROPRIATE FUNDS FOR IMPROVING THE FERRY SERVICE BETWEEN THE OFF-SHORE ISLANDS AND THE NORTH CAROLINA MAINLAND.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the Highway Fund of the State of North Carolina to the North Carolina Department of Transportation, in addition to all other appropriations, the sum of one million dollars (\$1,000,000) for the fiscal year 1974-75 for the purpose of improving the ferry service between the off-shore islands and the North Carolina mainland.

**Sec. 2.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**S. B. 1500                      CHAPTER 1459**

AN ACT TO AMEND G.S. 143-283.44, RELATING TO THE ORGANIZATION OF THE NORTH CAROLINA MANPOWER COUNCIL.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 143-283.44 is hereby amended by deleting subsection (a) in its entirety and inserting in lieu thereof a new subsection to read as follows:

“(a) Membership. The North Carolina Manpower Council shall consist of 15 members appointed by the Governor and, in addition, the chief elected official or his designee of each unit or combination of units of general local government which have federally approved comprehensive manpower plans. The 15 Council members appointed by the Governor shall be as follows: one representative of the State community colleges nominated by the State Board of Education; one representative of the Employment Security Commission; one representative of the Department of Human Resources; one representative of the Department of Administration; at least two representatives of organized labor; at least two representatives of business and industry; at least two representatives of community-based organizations and of the client community to be served under applicable federal legislation; and at least two representatives of the general

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public. Terms of the initial members of the Council shall be for one year and shall expire on July 1, 1975. At the end of the respective terms of office of the initial members of the Council, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Service on the Council shall not be deemed incompatible with the holding of any elective or appointive office under the Constitution of North Carolina, Article VI, Sec. 9."

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1399                      **CHAPTER 1460**

AN ACT TO AMEND G.S. 127-102(f) TO INCREASE ADMINISTRATIVE EXPENSE ALLOWANCES FOR THE NORTH CAROLINA NATIONAL GUARD.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 127-102(f) is hereby amended by striking out of the third and fourth lines thereof the words and numbers "six hundred dollars (\$600.00)" and inserting in lieu thereof the words and numbers "eight hundred dollars (\$800.00)"; and by striking out of the fifth line thereof the words and numbers "four hundred dollars (\$400.00)" and inserting in lieu thereof the words and numbers "six hundred dollars (\$600.00)".

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1470                      **CHAPTER 1461**

AN ACT TO APPROPRIATE FUNDS TO THE STATE BOARD OF EDUCATION FOR THE PURPOSE OF ASSISTING THE DEVELOPMENT OF ADVANCED PLACEMENT PROGRAMS IN SCHOOLS OF NURSING AND PRACTICAL NURSING.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the State Board of Education the sum of fifteen thousand dollars (\$15,000) for the fiscal year 1974-75 for distribution on an equitable basis to the following educational units in nursing to assist them in developing "advanced placement programs" approved by the Board of Nursing in accordance with G.S. 90-171.7: Western Carolina University, Cullowhee; Western Piedmont Community College, Morganton; UNC-Charlotte; Central Piedmont Community College, Charlotte; UNC-Greensboro; UNC-Chapel Hill; East Carolina University, Greenville; Fayetteville Technical Institute; and W. W. Holding Technical Institute, Raleigh.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1506                      **CHAPTER 1462**

AN ACT APPROPRIATING FUNDS TO THE NORTH CAROLINA COTTON QUALITY IMPROVEMENT COMMITTEE TO IMPROVE THE MARKETABILITY OF AND INCREASE THE INCOME FROM COTTON PRODUCED IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the North Carolina State University Agricultural Experiment Station for the North Carolina Cotton Quality Improvement Committee out of the General Fund of the State the sum of ten thousand dollars (\$10,000) for the fiscal year beginning July 1, 1974.

**Sec. 2.** Said sums are to be used by the North Carolina Cotton Quality Improvement Committee in cooperation with the North Carolina Department of Agriculture and North Carolina State University for the purchase of materials and supplies, printing, etc., to increase the production and marketability of North Carolina cotton, for purchase or contract of necessary equipment and costs of renting and transporting machinery to conduct on-farm tests aimed at reducing cost of production, harvesting and ginning, and programs and activities to increase, improve and promote cotton in North Carolina.

**Sec. 3.** This act shall become effective on and after July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1517                      **CHAPTER 1463**

AN ACT TO APPROPRIATE FUNDS FROM THE HIGHWAY FUND TO THE DEPARTMENT OF TRANSPORTATION FOR THE NATIONAL DRIVING CENTER FOUNDATION, INC.

Whereas, operating expenses for the National Driving Center Foundation were requested for the biennium 1973-75; and

Whereas, the 1973 General Assembly chose to budget for only fiscal year 1973-74, this is to continue the intent of the legislation passed in 1973; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Transportation from the Highway Fund for the National Driving Center Foundation, Inc., for operating expenses, the sum of two hundred ninety-five thousand dollars (\$295,000) for the fiscal year commencing July 1, 1974, and ending June 30, 1975.

**Sec. 2.** It shall be the duty of the State Auditor to make an annual audit of the accounts of the National Driving Center Foundation, Incorporated, and make a report thereof to the General Assembly.

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1527

CHAPTER 1464

AN ACT APPROPRIATING SUPPLEMENTARY FUNDS TO THE NORTH CAROLINA AGRICULTURAL EXPERIMENT STATION FOR RESEARCH ON AN INTEGRATED PEST MANAGEMENT SYSTEM AND PHYSIOLOGICAL FACTORS AFFECTING APPLE PRODUCTION IN NORTH CAROLINA.

Whereas, the apple industry is important to the agricultural economy of North Carolina; and

Whereas, the 20 to 30 million dollar annual crop is marketed through the fresh market and processing channels; and

Whereas, North Carolina initiates the season by being the first major apple-producing state to harvest fresh market fruit; and

Whereas, the North Carolina apple producer has historically received less than the national average for his crop; and

Whereas, freeze, drought, and heat have seasonally reduced production and quality; therefore it is necessary that techniques be investigated for control of these factors through utilization of over-tree sprinkler irrigation; and

Whereas, the general public has an increasing awareness of the environmental impact of pesticide utilization; therefore it is necessary to develop an integrated pest management system for the most prudent use of pesticides; and

Whereas, the North Carolina apple producer does not have adequate control of market flow due to inadequate storage facilities and storage quality information; therefore it is necessary to initiate studies on the factors that influence optimum storage quality of North Carolina apples; and

Whereas, the apple research resources needed to meet these demands exceed those presently available in terms of technical assistance, equipment and operating funds of the North Carolina Agricultural Experiment Station; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State, through the North Carolina Agricultural Experiment Station at North Carolina State University, to the Departments of Entomology and Horticultural Science, in addition to all other appropriations, a total sum of sixty-two thousand seven hundred thirty-two dollars (\$62,732) for the fiscal year beginning July 1, 1974, and ending June 30, 1975, and ensuing years, for the purpose of conducting apple research as set forth in the preamble of this act and according to the following schedule:

North Carolina Agricultural Experiment Station

Requirements for research studies on pest management, post-harvest studies and physiological factors associated with apple production.

A. Personnel and Positions

1. To hire additional personnel to increase apple research efforts in the Department of Entomology
2. To create additional support positions and upgrade an existing position in support of the apple research effort in the Department

15,116

of Horticultural Science	<u>19,616</u>
Sub Total	\$ 34,732
<b>B. Equipment</b>	
To aid in the purchase of irrigation equipment for research station orchards, to study techniques to minimize the adverse effects of freeze, drought and heat on apples, in support of the apple research effort in the Department of Horticultural Science	
Sub Total	<u>12,000</u> \$ 12,000
<b>C. Maintenance and Operations</b>	
1. To provide support for the pest management position (requested in Part A above)	
	6,000
2. To increase support of the post-harvest apple research effort in the Department of Horticultural Science	
	5,000
3. To increase travel support for pre-harvest apple research in the Department of Horticultural Science	
Sub Total	<u>5,000</u>
Grand Total	<u>16,000</u> \$ 62,732

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1540

**CHAPTER 1465**

**AN ACT TO MAKE UNIFORM THE EXPENDITURE OF FUNDS IN AREA MENTAL HEALTH PROGRAMS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 122-35.15 regarding expenditure of State funds in area mental health programs for the rehabilitation of alcoholics is amended to read as follows:

“§ 122-35.15. *Allocation by Department of Human Resources, local funds.*—Allocation of funds pursuant to the provisions of this Article by the Department of Human Resources shall be made on the same basis as those under Article 2C of this Chapter as provided by G.S. 122-35.23A.”

**Sec. 2.** G.S. 122-35.25 regarding expenditure of State funds in area mental health programs for community drug abuse programs is amended by deleting “in such manner as is provided in the act appropriating same.”, and inserting in lieu thereof “on the same basis as those under Article 2C of this Chapter as provided in G.S. 122-35.23A.”

**Sec. 3.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1578

CHAPTER 1466

AN ACT TO APPROPRIATE FUNDS FOR THE USE OF THE NORTH CAROLINA ALCOHOLISM RESEARCH AUTHORITY.

Whereas, the 1973 General Assembly created the North Carolina Alcoholism Research Authority and an Alcoholism Research Fund for the purpose of investigating the cause and promoting the prevention of alcoholism; and

Whereas, alcoholism constitutes a major public health problem affecting, directly or indirectly, approximately 500,000 citizens of this State; and

Whereas, the 16 units of The University of North Carolina, and the other nationally recognized private educational institutions and schools of medicine in North Carolina comprise the greatest potential talent pool of qualified scientists in any state with which to solve these health problems through scientific research; and

Whereas, the Alcoholism Research Fund is authorized to receive funds from State, federal, and private sources; and

Whereas, State funds are needed to enable the Alcoholism Research Authority to initiate necessary scientific research, training, and investigative programs on a long range basis; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State to the Department of Administration for the Alcoholism Research Fund the sum of two hundred fifty thousand dollars (\$250,000) for the purpose of commencing the total program necessary to eliminate alcoholism as a public health problem.

**Sec. 2.** All expenditures from the fund appropriated by this act shall be made in accordance with the provisions of the Executive Budget Act.

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1701

CHAPTER 1467

AN ACT DESIGNATING FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES FOR PROGRAMS IN GENETICS.

*The General Assembly of North Carolina enacts:*

**Section 1.** Of the funds appropriated by this General Assembly to the North Carolina Department of Human Resources, the sum of three hundred sixty thousand dollars (\$360,000) shall be used for programs in genetics, including education, testing, counseling, treatment and rehabilitation, with particular emphasis on Sickle Cell Anemia.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## H. B. 1707 CHAPTER 1468

AN ACT TO AMEND CHAPTER 523 OF THE 1973 SESSION LAWS SO AS TO PROVIDE THAT A PORTION OF THE FUNDS APPROPRIATED FOR A TRANSIT SHED AT THE WILMINGTON PORT MAY BE USED TO SUPPLEMENT OPERATING FUNDS OF THE NORTH CAROLINA STATE PORTS AUTHORITY.

Whereas, the shortage of bunker fuels for ships of all nations, and the extreme rise in costs of such available fuel, have resulted in a worldwide disruption of ship service; and

Whereas, ship calls at North Carolina Ports have fallen off thirty percent (30%) during the last two months; and

Whereas, consultation with port interests in other states, with steamship operators and agencies, ship captains, and the United States Maritime Administration indicates that adverse conditions will prevail for an indefinite period; and

Whereas, this drastic reduction in ship service and cargo movement has sharply reduced revenue from ship dockage fees and cargo wharfage fees at the North Carolina Ports; and

Whereas, a walkout of the labor force and a strike by longshoremen labor caused severe operating losses at the Wilmington Terminal in September and October of 1973; and

Whereas, prior to the fuel shortage and the labor problems the North Carolina State Ports Authority had obligated itself for certain construction projects and equipment and property purchases; and

Whereas, for all these reasons the Authority finds its cash resources all but depleted, a financial position never before experienced; and

Whereas, the 1973 General Assembly appropriated to the Ports Authority funds for a Transit Shed on South Dock Extension, Wilmington Port, the construction of which in any case would have to be delayed for at least 12 months because of complications in connection with other construction which must be completed first; and

Whereas, the Ports Authority, through the Department of Transportation and Highway Safety, has requested that the sum of eight hundred ninety-five thousand dollars (\$895,000), being a portion of the 1973 appropriation for the Transit Shed at the Wilmington Terminal, be made immediately available to the Authority as a supplement to its operating funds, thus enabling it to meet its current capital requirements and retain a sufficient cash reserve to permit time to adjust its activities to the new economic situation; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 523 of the Session Laws of 1973 is hereby amended by adding a new section to follow Section 18, to be designated Section 18.1, and to read as follows:

“Sec. 18.1. Of the sum of nine hundred thirty-five thousand dollars (\$935,000) appropriated in Section 4 to the North Carolina State Ports Authority for Item 3, Transit Shed on South Dock Extension, Wilmington Port, the sum of eight hundred ninety-five thousand dollars (\$895,000) may be used to supplement the operating funds of the Ports Authority.”

**Sec. 2.** Section 18 of Chapter 523 of the Session Laws of 1973 is hereby amended by deleting, on line 13, the figure “14,500,000” and inserting in lieu

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thereof the figure "15,395,000", and by deleting, on line 16, the figure "8,295,000" and inserting in lieu thereof the figure "7,400,000".

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1846 CHAPTER 1469

AN ACT TO PROVIDE FOR RESEARCH STUDIES AND EXTENSION EDUCATION ON HONEY BEE HUSBANDRY AND THE MANAGEMENT OF HONEY BEES FOR THE POLLINATION OF FRUIT AND VEGETABLE CROPS.

Whereas, honey bees are an important source of farm income to many North Carolinians, cash receipts from the North Carolina honey crop exceeded three million dollars (\$3,000,000) in 1972, and the value of the honey bee as a pollinator of fruit and vegetable crops is estimated to exceed forty-five million dollars (\$45,000,000) annually; and

Whereas, realization of increased honey production and improved pollination and the economic advantages which would result depend critically upon research to improve husbandry methods to foster improved pollination of fruit and vegetable crops, and effective dissemination of this knowledge, through extension education so that honey producers and the producers of fruit and vegetable crops can increase yields, reduce production costs and improve the competitive position of North Carolina honey producers and fruit and vegetable farmers relative to other parts of the United States; and

Whereas, resources needed for this specialized research and extension activities are in excess of resources currently available for these purposes to the North Carolina Agricultural Experiment Station and the North Carolina Agricultural Extension Service; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the general fund of the State to the North Carolina Agricultural Experiment Station (North Carolina Budget Code 28041) the sum of twenty thousand dollars (\$20,000) and to the North Carolina Agricultural Extension Service (North Carolina Budget Code 28061) the sum of twenty thousand dollars (\$20,000) for the fiscal year beginning July 1, 1974, and ending June 30, 1975, with these sums to become a part of the continuing or "Base Budget" of these two State agencies for the general purposes set forth in the preamble to this act and according to the following schedule:

<i>North Carolina Agricultural Experiment Station (Budget Code 28041)</i>	
A. Honey bee management for improved pollination of fruit and vegetable crops.	\$20,000
<i>North Carolina Agricultural Extension Service (Budget Code 28061)</i>	
A. Honey bee husbandry and management for increased production of honey and fruit and vegetable pollination	<u>20,000</u>
Total appropriations to both agencies	<u>\$40,000</u>

**Sec. 2.** The above named agencies shall handle and coordinate the administration and expenditure of all funds appropriated by this action, and all expenditures made from funds appropriated by this action and for the purposes

Session Laws—1973      CHAPTER 1471

herein designated shall be accounted for and reported to the fiscal and financial system of the agency to which the appropriation is made as herein set forth.

**Sec. 3.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

**Sec. 4.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1889                      CHAPTER 1470**

AN ACT TO AMEND CHAPTER 693 OF THE 1971 SESSION LAWS, AS AMENDED, TO MAKE AN ADDITIONAL APPROPRIATION FOR A CAPITAL IMPROVEMENT PROJECT AT ELIZABETH CITY STATE UNIVERSITY.

*The General Assembly of North Carolina enacts:*

**Section 1.** Chapter 693 of the Session Laws of 1971, as amended by Chapter 631 of the Session Laws of 1973, is amended by striking from page 699 of the Session Laws of 1971 amended item 9 under "Elizabeth City State University" and inserting in lieu thereof the following:

"9. Health and physical education	
Building	1,975,000
Fixed Equipment	85,000
Moveable Equipment	<u>110,000</u>
Subtotal	2,170,000
Less Self-Liquidating	<u>1,311,500</u>
Appropriation	<u>858,500</u>
Less 1971 Appropriation	<u>508,500</u>
Additional Appropriation	350,000."

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 1907                      CHAPTER 1471**

AN ACT TO APPROPRIATE EIGHT MILLION DOLLARS (\$8,000,000) TO THE NORTH CAROLINA HOUSING FINANCE AGENCY FOR THE PURPOSE OF ESTABLISHING A DEBT SERVICE RESERVE FUND OR FUNDS, TO TRANSFER TO SAID AGENCY THE SUM NOW HELD IN TRUST BY THE STATE TREASURER TO DEFRAY THE OPERATING EXPENSES OF SAID AGENCY AND TO AUTHORIZE THE TRANSFER OF CERTAIN EARNINGS FROM ANY SUCH DEBT SERVICE RESERVE FUND TO SAID AGENCY TO PAY ITS OPERATING EXPENSES SUBJECT TO THE APPROVAL OF THE ADVISORY BUDGET COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** For the purpose of establishing one or more debt service reserve funds there is hereby appropriated out of the General Fund of the State to the North Carolina Housing Finance Agency the sum of four million dollars (\$4,000,000) for the fiscal year commencing July 1, 1974.

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**Sec. 2.** The State Treasurer is hereby directed to transfer to the North Carolina Housing Finance Agency the unencumbered balance now remaining to the credit of the North Carolina Housing Corporation and now being held in trust by the State Treasurer pursuant to Chapter 727 of the 1973 Session Laws, said funds to be used by said Agency for the payment of its operating expenses.

**Sec. 3.** If and to the extent that the Agency requires funds for operating expenses in excess of the amount provided for in Section 2. of this act, said Agency may, subject to the approval of the Advisory Budget Commission, use an amount not in excess of fifty percent (50%) of the annual income or interest earned by, or increment to, any debt service reserve fund due to the investment thereof. Any balance remaining in said fund or funds after making the withdrawal hereinabove authorized shall be used solely for the purposes permitted by the resolution or trust indenture authorizing bonds of the Agency secured by such fund or funds; provided, however, that no such withdrawal shall be made if the effect thereof is to reduce the amount of such debt service reserve fund or funds below the maximum debt service reserve fund requirement fixed by such resolution or trust indenture.

**Sec. 4.** Sections 1 through 4 of Chapter 727 of the 1973 Session Laws are hereby repealed in their entirety.

**Sec. 5.** The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**Sec. 6.** This act shall be in full force and effect July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## H. B. 1913

## CHAPTER 1472

AN ACT TO AMEND HOUSE JOINT RESOLUTION 1336 OF THE 1973 SESSION LAWS OF NORTH CAROLINA REGARDING THE APPROPRIATION OF FUNDS FOR THE COMMISSION CREATED FOR THE STUDY OF THE LAWS PERTAINING TO INTOXICATING LIQUOR.

*The General Assembly of North Carolina enacts:*

**Section 1.** Section 4 of House Joint Resolution 1336, as the same appears in the 1973 Session Laws of North Carolina, is hereby rewritten to read as follows:

“Sec. 4. The members of the Commission shall be paid such per diem and travel expenses as are provided for members of State boards and commissions generally. The sum of fifteen thousand dollars (\$15,000) shall be appropriated from the General Fund of North Carolina to be paid to the Department of Commerce to be used to pay the expenses of the Commission.”

**Sec. 2.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1941                      **CHAPTER 1473**

AN ACT TO APPROPRIATE FROM THE GENERAL FUND THE SUM OF TWENTY THOUSAND DOLLARS (\$20,000) FOR THE TABOR CITY RECREATION COMMISSION.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated to the Department of Natural and Economic Resources from the General Fund the sum of five thousand dollars (\$5,000) for the Tabor City Recreation Commission.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1985                      **CHAPTER 1474**

AN ACT TO AMEND G.S. 7A-44 TO INCREASE THE TRAVEL AND SUBSISTENCE ALLOWANCE FOR SUPERIOR COURT JUDGES.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 7A-44 is amended in lines 2 and 3, by deleting “five thousand dollars (\$5,000)”, and inserting in lieu thereof “five thousand five hundred dollars (\$5,500)” and in lines 9 and 10, by deleting “outside of the State”.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2006                      **CHAPTER 1475**

AN ACT TO APPROPRIATE FUNDS TO DEFRAY EXPENSES OF ADMINISTERING THE CAMPAIGN CONTRIBUTIONS AND SPENDING REPORTING ACT.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated out of the General Fund of the State for the fiscal year commencing July 1, 1974, and ending June 30, 1975, the sum of fifty thousand dollars (\$50,000) to the State Board of Elections for employing personnel and defraying all other expenses necessary for the administration of the Campaign Contributions and Spending Reporting Act.

**Sec. 2.** This act shall become effective July 1, 1974, contingent upon the ratification of the Campaign Contributions and Spending Report Act.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2018

**CHAPTER 1476**

AN ACT TO AMEND THE LAW RELATING TO THE PERCENTAGE OF ASSESSMENTS FOR EXPENSES OF THE BURIAL ASSOCIATION COMMISSIONER.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 58-228, as the same appears in Volume 2B of the 1973 Cumulative Supplement of the General Statutes is hereby amended by deleting at line 6 the words "eighty percentum (80%)" and substituting therefor the words "seventy percentum (70%)" and by deleting on lines 8 and 9 the words "sixty-eight thousand dollars (\$68,000)" and substituting therefor the words "fifty-nine thousand five hundred dollars (\$59,500)".

**Sec. 2.** G.S. 65-36 as the same appears in Volume 2C of the 1973 Cumulative Supplement of the General Statutes is hereby amended by deleting on lines 7 and 8 the words "twenty percentum (20%)" and substituting therefor the words "thirty percentum (30%)" and by deleting on line 10 the words "seventeen thousand dollars (\$17,000)" and substituting therefor the words "twenty-five thousand five hundred dollars (\$25,500)".

**Sec. 3.** This act shall become effective on July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2047

**CHAPTER 1477**

AN ACT TO APPROPRIATE FROM THE GENERAL FUND THE SUM OF THREE HUNDRED THOUSAND DOLLARS (\$300,000) TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES FOR THE PROMOTION OF TOURISM IN NORTH CAROLINA.

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund the sum of one hundred thousand dollars (\$100,000), in addition to all other monies appropriated to the Department of Natural and Economic Resources, to be distributed on a matching dollar-for-dollar basis for use by nonprofit tourist promotional organizations in the State. The maximum amount to be given to any of these nonprofit promotional organizations is twenty-five thousand dollars (\$25,000).

All funds not distributed at the end of the fiscal year will revert to the General Fund.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 2076                      CHAPTER 1478**

**AN ACT TO TRANSFER FUNDS TO WESTERN NORTH CAROLINA  
SPECIALTY HOSPITAL FOR RENOVATION AND ALTERATIONS.**

*The General Assembly of North Carolina enacts:*

**Section 1.** The Department of Human Resources shall recommend to the Council of State that Gravely Hospital be transferred to North Carolina Memorial Hospital at Chapel Hill and that two hundred sixty-five thousand dollars (\$265,000) of funds appropriated for the operation of Gravely Hospital be transferred to Western North Carolina Specialty Hospital to be used for renovation and alterations for the physical facility of Western North Carolina Specialty Hospital.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

**H. B. 2118                      CHAPTER 1479**

**AN ACT TO CORRECT SALARY INEQUITIES OF SECRETARIES  
EMPLOYED IN COUNTY AGRICULTURAL EXTENSION SERVICE  
OFFICES.**

Whereas, the secretaries employed in the 100 County Agricultural Extension Service Offices in North Carolina are an essential part of the program of the North Carolina Agricultural Extension Service; and

Whereas, these secretarial positions have never been included under the classification program of the State Personnel Act because salary funds supporting these positions have been traditionally shared by both state and county government; and

Whereas, although in recent years the State has appropriated funds each year to the North Carolina Agricultural Extension Service to provide across the board salary increases on the portion of their salary coming from State Funds equal to the salary increases granted all State employees; but

Whereas, the State has never appropriated funds to the North Carolina Agricultural Extension Service to provide the State's portion of annual automatic and/or merit salary increases as provided for State employees covered by the State Personnel Act; and

Whereas, this has resulted in a salary schedule for these secretaries that is considerably lower than salaries paid to secretaries employed in other State agencies in that county; and

Whereas, the Office of State Personnel, in cooperation with the County Commissioners in each of the 100 counties, has established a salary plan level for local competitive service agencies - Public Health, Mental Health, Social Services and Civil Defense; and

Whereas, the nature of the work performed by the secretaries in the County Agricultural Extension Service Offices is comparable to that of secretaries in these local competitive service agencies and should, therefore, be comparable in salary; but

Whereas, because of reasons cited above, the average salary received by the county secretaries of the North Carolina Agricultural Extension Service is often

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significantly lower than their counterparts in the competitive service agencies in that same county; Now, therefore,

*The General Assembly of North Carolina enacts:*

**Section 1.** There is hereby appropriated from the General Fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Extension Service at North Carolina State University the sum of seventy-one thousand three hundred ninety-one dollars (\$71,391) for the fiscal year beginning July 1, 1974, and ensuing years for the purpose of adjusting present salaries of the county secretaries of the North Carolina Agricultural Extension Service to eliminate present salary inequities. Using the Standard Pay Plan, established for each county by the Office of State Personnel, the salaries of all county secretaries will be brought up to at least the starting salary of the appropriate salary grade for their position. The above appropriation will provide sufficient funds for the State to provide its share of the monies needed to make these adjustments. The County Commissioners may provide the remainder of the funds needed to adjust the salaries in their respective county.

Those secretaries who have been employed for one year as of July 1, 1974, will have their salaries adjusted so that it is equal to the second step in their salary grade range. Those secretaries who have been employed two or more years will have their salaries adjusted so that it is equal to the third step in their salary grade range.

**Sec. 2.** There is hereby appropriated from the General Fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Extension Service at North Carolina State University the sum of two thousand four hundred thirty-eight dollars (\$2,438) for the fiscal year beginning July 1, 1974, and ensuing years to provide the State's portion of funds needed to provide automatic salary increases for those secretaries in Steps 1 and 2 of their appropriate salary grades.

**Sec. 3.** There is hereby appropriated from the General Fund of the State of North Carolina, in addition to all other appropriations, to the North Carolina Agricultural Extension Service at North Carolina State University the sum of fourteen thousand four hundred twenty dollars (\$14,420) for the fiscal year beginning July 1, 1974, and ensuing years to provide the State's portion of funds needed to provide merit salary increases to two-thirds of those secretaries who are eligible and recommended by their appropriate supervisor.

**Sec. 4.** The North Carolina Agricultural Extension Service shall handle and coordinate the administration and expenditure of all funds appropriated by this action and for the purposes herein designated shall be accounted for and reported to the accounting office to which the appropriation is made as herein set forth.

**Sec. 5.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. B. 1426 CHAPTER 1480

AN ACT TO AMEND G.S. 20-183.7 RELATING TO FEES TO BE CHARGED BY SAFETY EQUIPMENT INSPECTION STATIONS.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 20-183.7 is hereby amended by striking from line 2 of Volume 1C of the General Statutes the words and figures “two dollars (\$2.00)” and inserting in lieu thereof the words and figures “three dollars (\$3.00)”.

**Sec. 2.** This act shall become effective July 1, 1974.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 1766 CHAPTER 1481

AN ACT RELATING TO THE PRACTICE OF COSMETOLOGY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 88-1 is amended by adding at the end of the section a new paragraph to read as follows:

“The operator of a cosmetic art shop, beauty parlor or hairdressing establishment may employ unlicensed personnel to do shampooing only, where the shampooing is done under the supervision of a registered cosmetologist. As used in this paragraph, “shampooing” includes only the application of shampoo to hair and the removal of the shampoo from the hair, and does not include any arranging, dressing, waving, marcelling or other treatment of hair. This act does not apply to barbershops.

**Sec. 2.** This act shall not apply to the following counties: Mecklenburg, Guilford, Cumberland, Halifax, Duplin, Jones, Lenoir, Durham, Sampson, Forsyth, Onslow, Martin, Richmond, Scotland, Stanly and Union.

**Sec. 3.** This act shall take effect upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. B. 2048 CHAPTER 1482

AN ACT REVISING THE PAY AND ALLOWANCES OF MEMBERS AND OFFICERS OF THE GENERAL ASSEMBLY.

*The General Assembly of North Carolina enacts:*

**Section 1.** G.S. 120-3 is rewritten to read as follows:

“§ 120-3. *Pay of members and officers of the General Assembly.*—(a) The Speaker of the House shall be paid an annual salary of nine thousand dollars (\$9,000), payable monthly, and an expense allowance of two hundred fifty dollars (\$250.00) per month. The President pro tempore of the Senate, the Speaker pro tempore of the House, the minority leader in the House and the minority leader in the Senate shall each be paid an annual salary of six thousand dollars (\$6,000), payable monthly, and an expense allowance of one hundred fifty dollars (\$150.00) per month. Every other member of the General Assembly shall be paid an annual salary of four thousand eight hundred dollars (\$4,800), payable monthly, and an expense allowance of one hundred dollars (\$100.00) per month. The salary and expense allowances provided in this action are in addition to any per diem compensation and any subsistence and travel allowance

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authorized by any other law with respect to any regular or extra session of the General Assembly, and service on any State board, agency, commission, standing committee and study commission.”

**Sec. 2.** G.S. 120-3.1 is rewritten to read as follows:

“§ 120-3.1. *Subsistence and travel allowances for members of the General Assembly.*—(a) In addition to compensation for their services, members of the General Assembly shall be paid the following allowances:

- i. A weekly travel allowance for each week or fraction thereof that the General Assembly is in regular or extra session. The amount of the weekly travel allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member’s home to the City of Raleigh by the rate per mile allowed to State employees for official travel.
- ii. A travel allowance at the rate allowed by statute for State employees whenever the member is traveling as a representative of the General Assembly or of its committees or commissions, whether in or out of session, when such travel has been authorized by the Legislative Services Commission.
- iii. A subsistence allowance in the amount of thirty-five dollars (\$35.00) per day for each day of the period during which the General Assembly remains in session.
- iv. A subsistence allowance in the sum of thirty-five dollars (\$35.00) per day for each day on official legislative business, when the General Assembly is not in session, when traveling as a representative of the General Assembly or of its committees or commissions, with the approval of the Legislative Services Commission.

(b) Payment of travel and subsistence allowances shall be made to members of the General Assembly only after certification by the claimant as to the correctness thereof on forms prescribed by the Legislative Services Commission. Claims for travel and subsistence payments shall be paid at such times as may be prescribed by the Legislative Services Commission.

(c) When the General Assembly by joint action of the two houses adjourns to a day certain, which day is more than three days after the date of adjournment, the period between the date of adjournment and the date of reconvening shall for the purposes of this section be deemed to be a period when the General Assembly is not in session, and no member shall be entitled to subsistence and travel allowance during that period, except under circumstances which would entitle him to subsistence and travel allowance when the General Assembly is not in session.”

**Sec. 3.** Effective as of the end of the term of the members of the 1973 General Assembly, G.S. 120-4.1 is repealed, subject to the following provisions to preserve vested and inchoate rights in the Legislative Retirement Fund:

(a) All persons who have at least four terms of creditable service as of the end of the 1973 term shall be entitled to receive the retirement benefits provided under G.S. 120-4.1 as it existed prior to this repealing act, but no credit shall be given for any service performed after the end of the 1973 term.

(b) Solely for purposes of administering the benefits authorized by this act, the authority and duties created by G.S. 120-4.1 as it existed prior to this repealing act shall continue in effect.

**Sec. 4.** This act shall become effective as of the end of the term of the members of the 1973 General Assembly.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.



# RESOLUTIONS

S. R. 965

## RESOLUTION 118

A JOINT RESOLUTION INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES AT 12:00 NOON, THURSDAY, JANUARY 17, 1974.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** His Excellency, Governor James E. Holshouser, Jr., is invited to address a joint session of the Senate and House of Representatives in the House Chamber at 12:00 noon, Thursday, January 17, 1974.

**Sec. 2.** A committee of two members of the Senate shall be appointed by the President and three members of the House of Representatives shall be appointed by the Speaker to convey this invitation to the Governor.

**Sec. 3.** This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of January, 1974.

H. R. 1406

## RESOLUTION 119

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HAROLD DUNBAR COOLEY, FORMER MEMBER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.

Whereas, Harold Dunbar Cooley the son of the late Roger A. P. Cooley and Harriett Davis Cooley, was born in Nashville, Nash County, North Carolina, on July 26, 1897, attended the public schools of Nash County and the Law School of the University of North Carolina and Yale University; and

Whereas, Harold Dunbar Cooley served his nation as a member of the Naval Aviation Flying Corps during World War I; and

Whereas, Harold Dunbar Cooley was a distinguished and effective attorney; and

Whereas, Harold Dunbar Cooley was elected a member of the 73rd Congress on July 7, 1934, and served as a member of Congress for over 32 years; and

Whereas, Harold Dunbar Cooley was chosen as the first member of the Agriculture Committee of the House of Representatives from North Carolina in over one hundred years; and

Whereas, Harold Dunbar Cooley became Chairman of the House Committee on Agriculture in 1948 and served as Chairman of that Committee longer than any Chairman in the history of our nation; and

Whereas, during the course of his career, Harold Dunbar Cooley championed the farmers, not only of North Carolina, but of the entire United States, and introduced or actively supported every piece of major farm legislation passed by Congress for a period of 32 years, including the Rural Electrification Act, The Farmer's Home Administration Act, the Tobacco

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Program, the Wheat Program, the Cotton Program, the Food for Peace Program and many other important acts; and

Whereas, legislation introduced by Harold Dunbar Cooley benefited the people of his district, and people of the entire United States and the world; and

Whereas, Harold Dunbar Cooley served as a delegate to the Interparliamentary Union for many years and served as its President; and

Whereas, Harold Dunbar Cooley was honored by the governments of Italy, Japan, Korea, France and other countries and many farm organizations for his service to Agriculture and as a statesman of the world; and

Whereas, the North Carolina General Assembly desires to express its appreciation for the long and distinguished career, and the fruitful life of Harold Dunbar Cooley, and desires to express its sympathy to his wife, Madeline Strickland Cooley, and to other members of his family; and

Whereas, this desire can best be expressed in words to his family:

“THANK YOU FOR SHARING HAROLD DUNBAR COOLEY WITH NORTH CAROLINA, THE UNITED STATES AND THE WORLD.”

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the North Carolina General Assembly does hereby express its grateful appreciation for the useful and dedicated life of Harold Dunbar Cooley.

**Sec. 2.** That the General Assembly extends its sympathy to the family of Harold Dunbar Cooley for the loss of its distinguished member.

**Sec. 3.** That this resolution shall become a part of the public record of the 1974 Session of the General Assembly of North Carolina, and a copy shall be duly certified by the Secretary of State and forthwith transmitted to the family of Harold Dunbar Cooley.

**Sec. 4.** This resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of January, 1974.

### H. R. 1407

### RESOLUTION 120

A JOINT RESOLUTION HONORING THE HONORABLE W. H. S. BURGWYN, SR., FOR THIRTY-SEVEN YEARS OF SERVICE TO THE NORTH CAROLINA GENERAL COURT OF JUSTICE, SUPERIOR COURT DIVISION, SUPERIOR COURT JUDGE.

Whereas, W. H. S. Burgwyn, Sr., Woodland, North Carolina, has served as a Superior Court Judge of the North Carolina General Court of Justice for 37 years; and

Whereas, Judge Burgwyn has served in both the House of Representatives and the Senate of the North Carolina General Assembly, having served as President Pro Tem of the Senate in 1925; and

Whereas, Judge W. H. S. Burgwyn, Sr., has demonstrated an outstanding capacity for leadership and ability as a diligent and able Superior Court Solicitor and as a Superior Court Judge has brought to the Superior Court bench an extraordinarily keen and deep understanding of the law as well as an undivided devotion and appreciation of the sometimes stern duty imposed upon him by his judicial office; and

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Whereas, Judge Burgwyn is approaching his 88th birthday and the General Assembly desires to show its respect and appreciation to one who has served his county, State and country with fidelity and undivided devotion as a distinguished jurist and public servant;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly honors the Honorable W. H. S. Burgwyn, Sr., for the splendid service that he has rendered to his State as a Judge of the Superior Court, recording for him their respect, admiration and affectionate regard.

**Sec. 2.** That a copy of this resolution certified by the Secretary of State be presented to Judge Burgwyn.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of February, 1974.

H. R. 1364

### RESOLUTION 121

A JOINT RESOLUTION HONORING TANGLEWOOD PARK, INC., OF WINSTON-SALEM/CLEMMONS, NORTH CAROLINA, COMPLIMENTING TANGLEWOOD FOR ITS SELECTION AS THE HOST CLUB FOR THE FIFTY-SIXTH PGA NATIONAL CHAMPIONSHIP, AUGUST 5 THROUGH AUGUST 11, 1974.

Whereas, "Tanglewood" is the former homeplace of William Neal and Kate Bitting Reynolds; and

Whereas, the 1,117 acre estate is located at Clemmons in Forsyth County; and

Whereas, the beautiful estate was willed to trustees to be developed for recreational purposes; and

Whereas, "Tanglewood" opened to the public in July, 1954; and

Whereas, through generous gifts from businesses, foundations, and individuals, facilities have been developed to offer picnicking, swimming, golf, tennis, horseback riding, camping, summer theatre, dining and lodging; and

Whereas, other special events include the annual Spring Steeplechase and the Tanglewood International Tennis Classic; and

Whereas, 300,000 visitors use the facilities annually; and

Whereas, the PGA National Championship will be played on the beautiful 7,050 yard, par 70 Championship Course at Tanglewood, and this golf course is abundantly trapped with lush Bermuda fairways and roughs and bent grass greens; and, with four lakes on the course, it presents a strong challenge to the world's finest golfers; and

Whereas, Jack Nicklaus, a three-time winner of this dominant event of competitive golf, will defend his PGA title against the other leading golfers of the world at Tanglewood; and

Whereas, the course has been completely redesigned by the internationally renowned golf course architect, Robert Trent Jones, a new club house constructed for visiting guests and adequate parking space for cars has been made available throughout the park; and

## Resolutions—1973

Whereas, the citizens of Forsyth County and the State of North Carolina are extremely proud of this most beautiful park and its selection as the site for the 56th PGA National Championship;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina hereby congratulates Tanglewood Park, Inc., upon being selected to host the 56th PGA National Championship, and in so doing commends and expresses our pride in one of North Carolina's and the Nation's most beautiful golf courses and public parks.

**Sec. 2.** That 12 copies of this resolution, upon ratification and being duly authenticated by the Secretary of State, shall be transmitted by the Secretary of State to Mr. William R. Lybrook, President of Tanglewood Park, Inc., Clemmons, North Carolina 27012.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 5th day of February, 1974.

H. R. 1423

### RESOLUTION 122

A JOINT RESOLUTION DESIGNATING FEBRUARY 8, 1974, AS JAYCEE DAY IN THE GENERAL ASSEMBLY.

Whereas, February 8, 1974, is hereby designated Jaycee Day in the General Assembly; and

Whereas, designated leaders of the North Carolina Jaycees, both past and present, including the State President, Mr. James Hastings, and many other officers and members of the North Carolina Jaycees are visiting in the General Assembly; and

Whereas, there are currently about 11,000 members of the Jaycees in over 260 Chapters in North Carolina; and

Whereas, these Chapters have recently conducted a statewide jelly sale to provide funds for the establishment of a Burn Center at North Carolina Memorial Hospital in Chapel Hill; and

Whereas, the North Carolina Jaycees have always attempted to make North Carolina a safe and beautiful place in which to live, work and visit; and

Whereas, the North Carolina Jaycees in the area of prison reform have formed 45 Jaycee Chapters in correctional units across North Carolina involving more than 1,000 inmates, this being more than any other state in the Nation; and recently received the U. S. Jaycee Bill Butler Memorial Award for these efforts; and

Whereas, they have an active program in the field of public education seeking to assist local school officials in 260 communities;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this General Assembly does hereby welcome our Jaycee guests today and proclaim this date as Jaycee Day in the General Assembly and is happy to congratulate the North Carolina Jaycees for all their many outstanding accomplishments.

## Resolutions—1973

**Sec. 2.** That this General Assembly wishes for the North Carolina Jaycees many more years of good and faithful service to the people of North Carolina through all their local Chapters.

**Sec. 3.** That a copy of this resolution be forwarded to the North Carolina Jaycees at their headquarters in Asheboro, North Carolina.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of February, 1974.

H. R. 1550

### RESOLUTION 123

A JOINT RESOLUTION PAYING TRIBUTE TO LOUISE M. THADEN FROM HIGH POINT, NORTH CAROLINA, WHO HAS ACHIEVED OUTSTANDING VICTORIES IN THE FIELD OF AVIATION.

Whereas, this General Assembly appreciates the opportunity to pay tribute to North Carolinians who have distinguished themselves in various endeavors and who bring credit to our State by their presence here; and

Whereas, we are privileged to have a resident in our State who has, by her own ability and determination, excelled in the field of aviation during an era when this career was heavily dominated by men; and

Whereas, it is fitting and proper that North Carolina, the home of the birth of aviation, should pay tribute to this grand lady of aviation while she is here to smell the flowers of public accolade; and

Whereas, this grand lady, Louise M. Thaden of High Point, North Carolina, has achieved many outstanding goals and victories in the field of flying, some of the more significant of which are as follows:

1. Set an altitude record of over 20,000 feet in a small open cockpit, single engine plane in 1928;
2. Set a solo duration (over 22 hours) and speed record (156 miles per hour) and won the first Women's Air Derby in 1929;
3. Set a refueling duration record (196 hours) in 1932;
4. Won the Bendix Transcontinental Air Race in 1936, the first year that women were permitted to compete with men in this National Air Race, and was awarded the Federation Aeronautique Internationale Aviator Harman Trophy Award in 1936;
5. Founder and charter member of the Ninety-Nine's (an international organization of women pilots).

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That we welcome Louise M. Thaden to the General Assembly this 12th day of February, 1974, along with many of her friends and fellow members of the Ninety-Nine's and wish her and these other courageous ladies fair winds and clear visibility as they "slip the surly bonds of earth and dance the skies on laughter-silvered wings."

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

## Resolutions—1973

H. R. 1525

### RESOLUTION 124

A JOINT RESOLUTION CONGRATULATING THE NORTH CAROLINA STATE UNIVERSITY FOOTBALL TEAM.

Whereas, the North Carolina State University football team has just concluded the finest back-to-back seasons in the 82 years that the University has been participating in collegiate football, with a record of 17-6-1; and

Whereas, for the second straight year the Wolfpack has been ranked in the top 20 teams of America in the Associated Press poll; and

Whereas, the Wolfpack has won back-to-back Bowl victories, defeating West Virginia in the Peach Bowl, 49-13 and defeating the University of Kansas in the 1973 Liberty Bowl, 31-18; and

Whereas, the team has become the first in the history of the Atlantic Coast Conference to record three consecutive post season Bowl victories; and

Whereas, the 1973 team went through the Atlantic Coast Conference undefeated and now has a string of 10 consecutive Atlantic Coast Conference wins; and

Whereas, the 1973 Wolfpack played before the largest crowds in the Atlantic Coast Conference history, topping the half-million mark for 11 regular season games, and also appearing before another 50,011 in the Liberty Bowl; and

Whereas, the team gained immense recognition for the State of North Carolina by appearing on television three times, twice regionally and once nationally; and

Whereas, this 1973 Wolfpack team established a new note of excitement by becoming the most prolific team in Atlantic Coast Conference history, averaging 33.2 points per game; and

Whereas, the 1973 Wolfpack established 20 new school records after setting 33 of these standards in 1972; and

Whereas, Bill Yoest, a guard on offense, was selected an All-American, being named to the Associated Press, United Press International, Walter Camp and Football Writers Association of America, among others; and

Whereas, fullback Stan Fritts and center Justus Everett were voted to the 1973 Academic All-America first team through their fine work in the classroom, as well as on the playing field; and

Whereas, this excellent football team placed five players on the All-Atlantic Coast Conference team, including Bill Yoest at guard, Rick Druschel at tackle, Willie Burden at running back, and Mike Stultz and Bobby Pilz as defensive backs; and

Whereas, native son, Willie Burden, a graduate of Raleigh Enloe High School, led all rushers in the Atlantic Coast Conference, gaining 1,020 yards and becoming the first player in North Carolina State's history to gain 1,000 yards or more in a single season; and

Whereas, this same Willie Burden was voted the Player of the Year in the Atlantic Coast Conference for his outstanding performance; and

Whereas, guard Bill Yoest became the first North Carolina State player since the Atlantic Coast Conference was formed 20 years ago, to win the coveted Jacobs Blocking Trophy; and

## Resolutions—1973

Whereas, this fine North Carolina State football team brought much excitement to the many football fans in the State of North Carolina with its excellent record and play;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this august body do honor and pay tribute to North Carolina State University's athletes and Coach Lou Holtz and his coaching staff.

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1974.

### S. R. 1086                      **RESOLUTION 125**

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF JAMES C. DISHNER, HUMANITARIAN EXTRAORDINAIRE.

Whereas, James C. Dishner became a citizen of Hendersonville and North Carolina 29 years ago; and

Whereas, James C. Dishner died in Pardee Memorial Hospital in Hendersonville at the age of fifty-five years on the twenty-sixth day of January, 1974; and

Whereas, the life of James C. Dishner was dedicated to the service of his fellowman as is demonstrated by his record as recipient of the Hendersonville YMCA Service Award in 1960-61, recipient of the Service Recognition Award from the Lifetime Sports Foundation in 1968, recipient of the Sertoma Service to Mankind Award in 1969, as a member and Sunday School teacher at the First Baptist Church of Hendersonville for 29 years; and

Whereas, James C. Dishner gave generously of his time, vision and judgment as a friend and consoler to countless individuals in need of aid or comfort without seeking reward or compensation; that these persons, better known as "Jim's boys", range in age from seven to 70; and

Whereas, in the passing of James C. Dishner, North Carolina and Henderson County lost one of its most beloved and respected citizens; and

Whereas, while there are other men and other gentlemen, there was only one James C. Dishner; and

Whereas, the 1974 General Assembly wishes to express its sorrow at the loss of an outstanding citizen of the State of North Carolina and wishes to express its sympathy to the family of James C. Dishner;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly hereby expresses its sense of loss in the death of James C. Dishner, an outstanding citizen of North Carolina and Henderson County and conveys its sympathy to the family of Mr. Dishner.

**Sec. 2.** A copy of this resolution shall be sent to the family of James C. Dishner.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1974.

## Resolutions—1973

H. R. 1456

### RESOLUTION 126

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DR. WILLIAM ALBERT SAMS.

Whereas, Dr. William Albert Sams, a Madison County physician since 1919 and a former member of the General Assembly died on November 17, 1971, at the age of 83 years after a lifetime of distinguished service to the citizens of the State of North Carolina; and

Whereas, in the death of Dr. William Albert Sams, the State has lost a highly capable doctor who fulfilled the needs of his patients in the rugged mountain area stretching westward to the Tennessee border, eastward to Petersburg and Bull Creek, southward toward Asheville and Canton, and in every remote and inaccessible area within traveling distance from his office in Marshall; and

Whereas, the accomplishments of Dr. William Albert Sams and the honors bestowed upon him were quite numerous and noteworthy and included such positions as: public school teacher and store clerk (1906); Acting Sheriff and Coroner of Unicoi County, Tennessee (1914); examining physician for Unicoi County, Tennessee Draft Board (1917); First Lieutenant United States Army, World War I; organizer and president of the Madison County Medical Society (1919); president of the Tenth District Medical Society (1938-39); Counselor for the Tenth District Medical Society (1947); president and vice-president of the North Carolina Academy of General Practice (1948); North Carolina delegate to the American Academy of General Practice (1950); Worshipful Master of the French Broad Masonic Lodge Number 292 (1923); thirty-second degree Mason and a Shriner joining the Oasis Temple of Shrine in 1923; Exalted Ruler of Elks Lodge Number 1401, Asheville (1942); president of North Carolina State Elks Association (1943); organizer of the North Carolina Elks Boys Camp; member of the Board of Deacons and Sunday School teacher for Marshall Baptist Church; former mayor of Town of Marshall; Madison County Health Officer; Madison County Coroner; and Member of the House of Representatives of the North Carolina General Assembly (1951); and

Whereas, the General Assembly desires to honor the memory of Dr. William Albert Sams and to express its sympathy to the surviving members of his family;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly recognizes and expresses its appreciation for the public service rendered by Dr. William Albert Sams, which has contributed so vastly to Western North Carolina and to the betterment of the State of North Carolina.

**Sec. 2.** That a copy of this resolution shall be certified by the Secretary of State and transmitted to the family of Dr. William Albert Sams.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1974.

H. R. 1619

**RESOLUTION 127**

A JOINT RESOLUTION CONGRATULATING THE NORTH CAROLINA GOVERNOR MOREHEAD SCHOOL WRESTLING AND CHEERLEADING SQUADS.

Whereas, the Eastern Athletic Association for the Blind Wrestling and Cheerleading Tournament was held at the Maryland School for the Blind on January 25, and 26 of this year; and

Whereas, the tournament featured teams from ten state schools for the blind covering an area from Maine to North Carolina; and

Whereas, the wrestling team and the cheerleading squad from the Governor Morehead School for the Blind competed in this tournament and each won their respective competitions; and

Whereas, this is the second year in a row that the Governor Morehead School for the Blind wrestling team has won the tournament and the third straight year the Governor Morehead School for the Blind cheerleading squad has been victorious in the tournament; and

Whereas, these blind students have demonstrated not only unusual ability but also outstanding sportsmanship during these tournaments; and

Whereas, these accomplishments have brought honor to the State of North Carolina, and are sources of pride to the people of the State of North Carolina and are worthy of the highest commendation;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Governor Morehead School for the Blind wrestling team in general and in particular its coach, John Wood, and the members of the team composed of Tony Webb, Donnie Best, Eric Holmes, Henry Roberson, Bobby DeWitt, Roy Kennedy, Clifton Simmons, James Smith, Roy Townsend, James Allsbrooks, Clodia Chavis, Jr., and Larry Williams are hereby commended for their splendid wrestling ability and success in winning the wrestling competition in the Eastern Athletic Association for the Blind Wrestling and Cheerleading Tournament for the past two years.

**Sec. 2.** The Governor Morehead School for the Blind cheerleading squad in general and in particular its coach, Catherine Rogers, and the members of the squad composed of Shirley Whitfield, Susan Patterson, Sue Smith, Terrie Smith, Margaret Council, and Regina Gore are hereby commended for their splendid accomplishments in winning the cheerleading competition in the Eastern Athletic Association for the Blind Wrestling and Cheerleading Tournament for three straight years.

**Sec. 3.** A copy of this resolution shall be duly certified by the Secretary of State and forwarded to Coach John Wood and Coach Catherine Rogers, and to each member of the wrestling team and cheerleading squad.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1974.

## Resolutions—1973

S. R. 1257

### RESOLUTION 128

A JOINT RESOLUTION REQUESTING THE FEDERAL ENERGY OFFICE TO ALLOCATE MORE GASOLINE TO NORTH CAROLINA.

Whereas, there is a critical shortage of gasoline in North Carolina which threatens to immobilize many of her people and paralyze much of her industry during the week of February 25, 1974; and

Whereas, there is a gasoline shortfall of at least thirty percent (30%) in meeting the needs of the people of North Carolina for the month of February, 1974, with fifteen percent (15%) representing the planned reduction from the February, 1972, base period, ten percent (10%) representing a conservative estimate of normal growth in consumption from 1972 to 1974, and five percent (5%) representing a conservative estimate of the effect of the complete withdrawal of two oil companies and the partial withdrawal of five additional oil companies from North Carolina markets; and

Whereas, due to the aforesaid withdrawal of oil companies and the failure of the initial allocation formula to compensate for such fact, the shortfall in North Carolina exceeds by approximately five percentage points the shortfall in the rest of the nation;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Federal Energy Office is earnestly requested to grant a five percent (5%) emergency allocation to increase the amount of gasoline immediately available in North Carolina and to take such steps as are necessary to insure that North Carolina receives its fair share of available gasoline supplies in the future.

**Sec. 2.** It is requested that a copy of this resolution be delivered or transmitted to the appropriate representative of the Federal Energy Office at the earliest possible moment.

**Sec. 3.** It is requested that a copy of this resolution be transmitted to each member of the North Carolina Congressional delegation.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of February, 1974.

S. R. 1107

### RESOLUTION 129

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF P. HUBER HANES, JR.

Whereas, P. Huber Hanes, Jr., civic and business leader, public servant, builder and farmer, died at his Winston-Salem home on January 31, 1974; and

Whereas, he was born on January 27, 1915, the son of Pleasant Huber Hanes, Sr., and Evelyn Hazen Hanes, and was educated at Woodberry Forest School, Duke University, and the Harvard School of Business Administration; and

Whereas, he served his native Forsyth County on the Board of County Commissioners and shortly thereafter became its Chairman, serving during some of the most dynamic periods of that county's growth, with his characteristic firmness, honesty, and outspoken candor; and

## Resolutions—1973

Whereas, he served his country not only in his Naval service in World War II, but also in his willingness to lead in the campaigns of such candidates as Barry Goldwater and James E. Holshouser; and

Whereas, he served the business community in the textile industry so important to this State, joining his father in the P. H. Hanes Knitting Company after his graduation from college, and moving through the ranks of that corporation to become its President and later the President of its successor, Hanes Corporation; and

Whereas, he served his State in leading the drive to raise funds for the purchase and development of Pilot Mountain, a project which acquired and turned over to the State of North Carolina at no cost to its citizens, an entire mountain, two river islands, and connecting corridors; and

Whereas, in the passing of this man who was devoted to building things to make life better for people, the City of Winston-Salem, the County of Forsyth, and the State of North Carolina have lost a valued leader, a true patriot, and a trusted friend;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the General Assembly of 1973 recognizes the contributions and mourns the passing of P. Huber Hanes, Jr., a great son of North Carolina, and extend our sympathy to his wife and children.

**Sec. 2.** That this resolution be effective upon its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1974.

S. R. 1056

### RESOLUTION 130

#### A JOINT RESOLUTION AUTHORIZING A LEGISLATIVE COMMISSION TO STUDY THE DAIRY INDUSTRY OF THIS STATE.

Whereas, milk is a primary and necessary food for the citizens of the State, and it is necessary and in the public interest that there shall be available an adequate supply of wholesome milk and other dairy products on a long-range, sustained basis; and

Whereas, it is vital to the public health and welfare of the people of the State that the production, processing, distribution and marketing of milk be carried on in an efficient and equitable manner; and

Whereas, the General Assembly desires to authorize and direct that a study commission be empaneled to inquire into all necessary and proper aspects of the dairy industry in North Carolina and to make its report to the General Assembly and to the Governor;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby established the North Carolina Dairy Industry Study Commission. The Commission shall consist of four senators appointed by the President of the Senate and four representatives appointed by the Speaker of the House. Membership shall include the chairmen of the Agriculture Committees of each house and such other members as shall be appointed by the respective officers. The Commission shall select its own Chairman and such other officers as it may deem necessary. Any member who is

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appointed may continue to serve, even though said member does not seek reelection in the General Assembly. However, in the event a vacancy shall occur because of the resignation or incapacity of any member, the vacancy shall be immediately filled by the President of the Senate or Speaker of the House who is then in office.

**Sec. 2.** The members of the Commission shall be appointed as soon after the adjournment of the General Assembly as practicable and shall serve until the report of the Commission is filed with the General Assembly and the Governor.

**Sec. 3.** The Commission shall study all matters it deems appropriate concerning the production, processing, distributing and marketing of milk in North Carolina.

**Sec. 4.** The Commission shall make a report, or interim report, to the 1975 Session of the General Assembly within 30 days after the convening thereof. The Commission is authorized to continue its work, if it deems it necessary, and make its final report within 30 days after the convening of the 1977 Session of the General Assembly.

**Sec. 5.** The members of the Commission shall receive such per diem, travel and subsistence as is provided by law for legislative commissions generally, to be paid as provided by law for legislative commissions generally.

**Sec. 6.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

S. R. 1350

### RESOLUTION 131

A JOINT RESOLUTION CALLING UPON THE UNITED STATES GOVERNMENT TO OBTAIN FROM THE GOVERNMENT OF NORTH VIETNAM AN ACCURATE ACCOUNTING OF ALL AMERICAN SERVICEMEN MISSING IN ACTION.

Whereas, on March 27, 1973, all prisoners of war held by the government of North Vietnam were to be returned to their respective governments; and

Whereas, almost one year has passed and there are still over 1,200 servicemen whose whereabouts are unknown; and

Whereas, the POW-MIA story of this war has been a long and tragic one and the hopes and dreams which were generated in the hearts and minds of the families and friends of these brave men 12 months ago are still unfilled; and

Whereas, the government of North Vietnam adamantly continues its refusal to account for these brave men; and

Whereas, the families of these servicemen continue to suffer in weakened spirits as the seasons pass, not knowing whether their loved ones are dead or alive; and

Whereas, the government of North Vietnam is legally obligated to make an accurate accounting for all of our servicemen;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly of North Carolina goes on record by calling upon the government of North Vietnam to live up to and abide by the terms of the Paris Agreement and cease hindering the legal search for our unaccounted for sons.

## Resolutions—1973

**Sec. 2.** We also go on record by calling upon the United States Government to make every effort to secure an accurate accounting of all of our missing personnel.

**Sec. 3.** We further declare that all North Carolinians will not forget these brave men whose whereabouts are still unknown.

**Sec. 4.** The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the Secretary General of the United Nations, the Secretary of State of the United States, the President of the United States, the Governor of North Carolina, and to Congressmen and United States Senators of North Carolina.

**Sec. 5.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1974.

S. R. 941

### RESOLUTION 132

A JOINT RESOLUTION HONORING DR. CAREY HOYT BOSTIAN,  
FORMER CHANCELLOR OF NORTH CAROLINA STATE  
UNIVERSITY.

Whereas, Carey Hoyt Bostian is retiring from the faculty of North Carolina State University at Raleigh where he has taught young men and women for forty-three years, and where he conducted scientific research in the vital field of genetics, and where he has earned distinction as an administrator, counselor, author and humane educator; and

Whereas, Dr. Bostian led our State's land-grant University as Chancellor from 1953 to 1959 when the institution was emerging as a nationally and internationally recognized center in the sciences, technologies and humanities; and

Whereas, Dr. Bostian has been recognized by his students, colleagues, alumni and administrators on the campus in West Raleigh, and on farms and in towns from the Atlantic to the Appalachians and in centers of learning around the world as a scientist, scholar and teacher;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the General Assembly of North Carolina of 1973 acknowledges and appreciates the service of Carey Hoyt Bostian to North Carolina State University, to the State of North Carolina and to mankind.

**Sec. 2.** That a copy of this resolution, duly certified by the Secretary of State, be sent to Dr. Carey Hoyt Bostian.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

## Resolutions—1973

S. R. 950

### RESOLUTION 133

A JOINT RESOLUTION IN APPRECIATION OF A GIFT FROM MR. AND MRS. JOHN R. PARKER OF A BRONZE BUST OF JOHN PAUL JONES TO THE STATE OF NORTH CAROLINA WHICH WILL BE ON DISPLAY AT THE HALIFAX STATE HISTORIC SITE.

Whereas, the legend of the association of John Paul Jones, America's first naval hero, with the family of Willie Jones of Halifax, North Carolina, has been a source of great pride for North Carolina over the years; and

Whereas, Mr. and Mrs. John R. Parker, being desirous of strengthening and maintaining this source of State pride for present and future generations, have obtained, at great personal difficulty and expense, an authentic duplicate of the famous bronze bust of John Paul Jones by Jean Antoine Houdon, and have unselfishly and generously made a gift of this valuable work of art to the State of North Carolina on April 28, 1973; and

Whereas, by this act on the part of Mr. and Mrs. John R. Parker, countless numbers of North Carolinians and others will be privileged to enjoy, and to be inspired by, this magnificent likeness of one of our nation's great heroes, when it is displayed at the Halifax State Historic Site;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The utmost appreciation on behalf of the people of North Carolina is expressed to Mr. and Mrs. John R. Parker for their magnificent contribution to the art treasures of the State, as well as to the aesthetic and moral values of our people.

**Sec. 2.** That the Secretary of State send a certified copy of this resolution to Mr. and Mrs. John R. Parker and to the Secretary of the Department of Art, Culture and History.

**Sec. 3.** This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1974.

S. R. 1400

### RESOLUTION 134

A JOINT RESOLUTION ESTABLISHING THE JOINT SPECIAL COMMITTEE ON GASOLINE ALLOCATION AND DISTRIBUTION.

Whereas, there exists a severe shortage of gasoline in North Carolina; and

Whereas, this shortage has caused great public concern, confusion, and dismay; and

Whereas, this shortage has affected the ability of many people to earn a livelihood, has disrupted normal life patterns, and has caused great discomfort and inconvenience to the public; and

Whereas, there is conflicting information as to the availability of gasoline in North Carolina; and

Whereas, the availability of gasoline in North Carolina varies considerably from location to location; and

Whereas, North Carolina is apparently not receiving its fair share under the federal mandatory gasoline allocation plan; and

Whereas, North Carolina's voluntary plan for the regulation of gasoline sales has received mixed public reaction and acceptance; and

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Whereas, the institution of North Carolina's voluntary plan for the regulation of gasoline sales has not noticeably decreased the length of lines at gasoline stations; and

Whereas, there is a need for accurate information as to the amount of gasoline coming into North Carolina and its distribution across the State; and

Whereas, there is a need for accurate information as to the number and distribution of the users of said gasoline; and

Whereas, there is a need for accurate information as to the State's gasoline set-aside for emergency allocation, the guidelines used to determine how the set-aside is allocated, and the recipients of such emergency allocations; and

Whereas, there is a need to reduce the consumption of gasoline; and

Whereas, there is a need for improved methods for the distribution and buying of gasoline;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby created the Joint Special Committee on Gasoline Allocation and Distribution, to continue at the joint pleasure of the President of the Senate and Speaker of the House, to be made up of six members of the Senate appointed by the President of the Senate and six members of the House of Representatives appointed by the Speaker of the House of Representatives. The President of the Senate and the Speaker of the House of Representatives shall each designate one of his appointees to serve as co-chairman of the committee.

**Sec. 2.** The first meeting shall be at the call of the co-chairmen.

**Sec. 3.** The committee shall have the following duties:

(1) To compile accurate information on the amount of gasoline available in North Carolina now and expected in the months ahead.

(2) To determine North Carolina's fair share of the national gasoline supply under the federal mandatory allocation plan.

(3) To formulate plans for an equitable distribution system of gasoline to the end users in North Carolina.

(4) To analyze the State's voluntary gasoline buying plan as to its acceptance and effectiveness.

(5) To examine methods for reducing the consumption of gasoline.

(6) To investigate other aspects of the gasoline shortage in North Carolina as it sees fit.

(7) To propose legislation on any or all of the items in this section as it deems necessary.

(8) To report its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives on or before March 25, 1974, or as soon thereafter as practical.

**Sec. 4.** In addition to all other powers, the committee shall have the authority to conduct hearings, to call for information, to summon witnesses, and to otherwise act in accordance with Article 5 and Article 5A of G.S. 120.

**Sec. 5.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of March, 1974.

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H. R. 1651

### RESOLUTION 135

A JOINT RESOLUTION HONORING THE TALENT, ACCOMPLISHMENTS AND DEDICATION OF THE NORTH CAROLINA TEACHER OF THE YEAR FOR 1974, MRS. FRANCES KISER.

Whereas, it is the responsibility and the desire of this General Assembly to encourage and foster excellence in teaching in the public schools of North Carolina; and the teacher selected as the North Carolina Teacher of the Year for 1974 exemplifies the best in talent, dedication and achievement available in the teaching profession today and is an excellent choice to represent North Carolina as Teacher of the Year; and

Whereas, Mrs. Frances Kiser is a native of Cleveland County and a graduate of Gardner-Webb College, holds a bachelor's degree from Western Carolina University and a master's degree from Appalachian State University, and has taught 18 years, currently serving as co-chairman of Crest High School's English Department; and

Whereas, Mrs. Frances Kiser's dedication is such that she considers herself to be a 24-hour-a-day teacher; and

Whereas, Mrs. Frances Kiser brings honor to North Carolina by her selection in that she reflects the dedication and selflessness of the teaching profession throughout North Carolina, and stimulates all other teachers in North Carolina to strive for the excellence she has demonstrated;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the North Carolina General Assembly expresses its appreciation for the unstinting service Mrs. Frances Kiser gives daily to the children of her State and community.

**Sec. 2.** That this resolution shall become part of the public records of the 1974 Session of the General Assembly of North Carolina, and that the Secretary of State shall cause certified copies of this resolution to be transmitted to Mrs. Frances Kiser and her family.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1974.

H. R. 2086

### RESOLUTION 136

A JOINT RESOLUTION HONORING THE SOUTH JOHNSTON HIGH SCHOOL GIRLS' BASKETBALL TEAM.

Whereas, the South Johnston High School Girls' Basketball Team, known as the "Trojans" has been molded into an outstanding team under the tutelage of Coach Tom Jackson and Assistant Coach Mike Long; and

Whereas, the 1973-74 Trojan girls' team compiled an overall record of 21 victories and only 2 defeats, those 2 defeats being a 1-point decision and a double-overtime loss during the regular season; and

Whereas, the 1973-74 Trojan girls' team earned the right to participate in the 1974 State Girls' Tournament by virtue of winning the District Three Championship of North Carolina; and

## Resolutions—1973

Whereas, the Trojan girls' team participated in said State Girls' Tournament and did on March 2, 1974, defeat a talented Williamston High School Girls' Basketball Team to win the State Girls' High School Basketball Championship; and

Whereas, the winner of the State Girls' High School Basketball Tournament earns the distinction of being the Number One high school girls' basketball team in the State of North Carolina; and

Whereas, in establishing this remarkable record and in winning the State Championship, the Trojan girls' basketball team has demonstrated that it is a team not only of unusual ability, but also a team of great determination and outstanding sportsmanship;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the South Johnston High School Girls' Basketball Team of 1973-74, including the team members, the coaching staff and the team assistants, is hereby commended for its splendid accomplishments in winning the State High School Girls' Championship.

**Sec. 2.** That a copy of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to Tom Jackson, Coach, on behalf of the South Johnston High School Girls' Basketball Team.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of March, 1974.

### H. R. 1975                      **RESOLUTION 137**

A JOINT RESOLUTION HONORING THE WORLD RECORD TRACK ACCOMPLISHMENTS OF UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL DISTANCE RUNNER TONY WALDROP, AND OFFERING THE GENERAL ASSEMBLY OF NORTH CAROLINA'S ENCOURAGEMENT FOR HIS CONTINUED SUCCESS IN FUTURE RACES.

Whereas, on Sunday night, February 17, 1974, in San Diego, California, University of North Carolina at Chapel Hill distance runner Tony Waldrop set a new world indoor record for the one-mile run, recording a time of three minutes and fifty-five seconds flat (3:55); and

Whereas, on Saturday night, February 23, 1974, in College Park, Maryland, Tony Waldrop won the Atlantic Coast Conference Championship in the one-mile run, recording a time of three minutes and fifty-six point four seconds (3:56.4) - tying the previous world indoor record; and

Whereas, at the same time he won the Atlantic Coast Conference Championship, Tony Waldrop ran his sixth consecutive sub-four-minute mile in indoor competition, a feat no one in history had ever before accomplished (the previous record was two consecutive sub-four-minute miles in indoor competition); and

Whereas, Tony Waldrop is a native of Columbus, North Carolina, a senior Political Science major at the University of North Carolina at Chapel Hill, a Morehead Scholar, a Dean's List student, and a spring candidate for admission to Phi Beta Kappa; and

## Resolutions—1973

Whereas, outstanding student-athlete Tony Waldrop is now looking forward to the National Indoor Collegiate Championship to be held on March 9, 1974, in Detroit, Michigan, where he will try for his seventh consecutive sub-four-minute mile in indoor competition;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina recognizes and honors Tony Waldrop for his exceptional athletic achievements, for his outstanding academic record, and for his fine representation of the State of North Carolina and his University.

**Sec. 2.** The General Assembly of North Carolina congratulates Tony Waldrop on his world record track achievements, and offers every encouragement and good wish for his continued success in further competition and future endeavors.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. R. 2065

### RESOLUTION 138

A JOINT RESOLUTION HONORING CARTER RAY SUGGS FOR HIS OUTSTANDING ACCOMPLISHMENTS IN TRACK AND FIELD.

Whereas, Carter Ray Suggs, a senior at Tarboro High School, Tarboro, North Carolina, has brought honor to the State of North Carolina for his outstanding record in track and field; and

Whereas, he has compiled innumerable records while competing in track meets both at home and abroad; and

Whereas, the General Assembly of North Carolina could not undertake, within the limits of a resolution, to set forth the many honors and championships that this fine athlete has earned within the short span of his high school career; and

Whereas, the General Assembly, in selecting the outstanding among these honors, would recognize Carter Ray Suggs as the District, Sectional, Regional and State Champion in the 100-yard dash and 220-yard dash and would mention that in capturing the State Crown that this athlete set a new State record and tied the National record by running the 100-yard dash in 9.3 seconds which feat he duplicated in the State Junior Olympics where he also won the 220-yard dash in 20.3 seconds which is a new State record for that distance; and

Whereas, this athlete has distinguished himself beyond the State of North Carolina having won championships in the All-American Track and Field Meet in Des Moines, Iowa, the National Junior Championships in Gainesville, Florida, and has further distinguished himself abroad by his championship participation on behalf of the United States in track and field meets against Poland and Russia and in further competition with West Germany during which meet he set a new World record in the 440-yard relay; and

Whereas, as a result of these fine achievements, he has received many accolades including that of being chosen a high school All-American by "Scholastic Magazine", and runner-up Athlete of the Year by "Track and Field News"; and

## Resolutions—1973

Whereas, Carter Ray Suggs has brought great honor to the State of North Carolina having received 142 scholarships including offers from Yale University, Ohio State University, the University of Michigan and the University of Texas; and

Whereas, the State of North Carolina is deeply pleased to learn that Carter Ray Suggs has chosen to remain in his native State of North Carolina in that he has accepted a scholarship at East Carolina University;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this Legislature pay tribute to Carter Ray Suggs as one of the outstanding native sons of this State.

**Sec. 2.** That a copy of this resolution be sent to Carter Ray Suggs and his coach, James Brett, of Tarboro High School.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1974.

H. R. 2022

### RESOLUTION 139

A JOINT RESOLUTION HONORING DAVID WYETH ROYSTER, PROMINENT BUSINESSMAN AND DISTINGUISHED CIVIC LEADER.

Whereas, David Wyeth (Ick) Royster, prominent businessman and distinguished civic leader, died December 20, 1973, in Shelby, North Carolina; and

Whereas, this native of Cleveland County was born on December 26, 1893, and for many years had taken an active interest in his home town, his county and his State; and

Whereas, Mr. Royster was educated in the public schools of Shelby, at the University of North Carolina, and at the New Bedford Textile School in New Bedford, Massachusetts, starting his business career as an executive in the Olive Hosiery Mill, and later entering the transport and oil business, becoming President of Royster Transport Company and Royster Oil Company and donating years of service to State and national trucking associations; and

Whereas, Mr. Royster's energies and abilities resulted in his becoming a Director and past President of the North Carolina Motor Carriers Association, a Director of the American Trucking Association and the National Tank Truck Carriers' Conference; and

Whereas, Mr. Royster was also active in his community and civic life, being a Democrat and chairman of his local precinct, a Mason, Shriner, and Alderman of the City of Shelby, member of the Shelby School Board for twenty-five years, member of the Shelby Chamber of Commerce, Shelby Parks and Recreation Board, Advisory Board of Gardner-Webb College, member of the Board of Directors of the Cleveland Memorial Hospital, Director of the First National Bank of Shelby, and Vice-President of the Cleveland Savings and Loan Association; and also on the Advisory Board of Furman University; and

Whereas, Mr. Royster and other members of the Royster family gave parks for recreation, and a golf course to the citizens of Shelby; and

Whereas, as an enthusiastic and able leader, Mr. Royster served on many commissions and boards on the State level, including the North Carolina Tax

## Resolutions—1973

Study Commission, Governor's Piedmont Crescent Advisory Commission, State Gasoline and Oil Inspection Board, North Carolina Citizens' Association, North Carolina Oil Jobbers Association, Governor's Traffic Safety Council; and

Whereas, Mr. Royster made significant contributions to State and local hospitals, receiving commendations, particularly for helping to uplift the standards of North Carolina mental hospitals, being appointed by Governors to the State Mental Health Board for approximately 20 years and receiving successive appointments from four Governors to the State Hospital Board of Control, being honored for his service by his name being given to a two million dollar (\$2,000,000) hospital and administration building at Cherry State Hospital in Goldsboro; and

Whereas, Mr. Royster was a builder—his dreams becoming realities and monuments to him in many structures and shopping centers throughout the South; and

Whereas, Mr. Royster, with great modesty, gave not only of his means, but of his time, in an effort to help those who were not able to help themselves, and who through no fault of their own were victims of adversity; and in his practice of Christian charity gave liberally of his patience, his talents and his deep human sympathy; and

Whereas, as a person, Mr. Royster was kind and courteous, witty and good-humored, straightforward and sincere, according to all a fair opportunity to present their viewpoint but reserving to himself the right to his own independent convictions, which he would express with firmness and clarity of language; notwithstanding his refusal to yield on matters of principle, he was ever gentlemanly and courteous of manner, evoking the admiration and affection of all those fortunate enough to know him; In the famous words of the Bard of Avon: We "shall not look upon his like again."

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That, in the passing of David Wyeth Royster, the State of North Carolina has lost one of its most distinguished citizens.

**Sec. 2.** That the General Assembly expresses its profound sorrow and sense of loss to the family and friends of D. W. Royster.

**Sec. 3.** That a certified copy of this resolution be transmitted by the Secretary of State to his widow, Mrs. Margaret McMurry Royster, his son, Mr. David W. Royster, Jr., and his daughter, Mrs. James Taylor, all of Shelby, North Carolina.

**Sec. 4.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

## Resolutions—1973

### H. R. 2100                    **RESOLUTION 140**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MEREDITH HUGH THOMPSON.

Whereas, Meredith Hugh Thompson was born on May 3, 1898, in Goldsboro, North Carolina, and died on March 18, 1974, in Durham, North Carolina, at the age of 75; and

Whereas, Meredith Hugh Thompson began practicing law in Durham in 1923 and continued to practice there for 50 years; and

Whereas, Meredith Hugh Thompson served his profession as President of the Durham County Bar Association in 1973 and as President of the Fourteenth Judicial District Bar Association in 1973-74; and

Whereas, Meredith Hugh Thompson served his country with honor in the Army in France being severely wounded on November 11, 1918; and

Whereas, Meredith Hugh Thompson served his State as a member of the Board of Trustees of North Carolina Central University and as a member of the Governor's Committee on Law and Order; and

Whereas, Meredith Hugh Thompson served his church, the St. Joseph's A. M. E. Church of Durham as a trustee; and

Whereas, Meredith Hugh Thompson served his community as a member of the Weaver McLean Post 175 of the American Legion, as a member of the Occoneechee Council of the Boy Scouts, as a member of the Durham Committee on Negro Affairs and as Chairman of the Board of the Daisy E. Scarborough Home, Inc.; and

Whereas, Meredith Hugh Thompson was a leader in the Civil Rights Movement in Durham County;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That in the death of Meredith Hugh Thompson, Durham County and North Carolina have suffered the loss of a distinguished citizen.

**Sec. 2.** That a copy of this resolution shall be duly certified by the Secretary of State and transmitted to the family of Meredith Hugh Thompson.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of March, 1974.

### H. R. 2093                    **RESOLUTION 141**

A JOINT RESOLUTION DESIGNATING MARCH 29, 1974, AS "VIETNAM VETERANS DAY".

Whereas, on December 18, 1973, the Senate and House of Representatives of the United States of America in Congress assembled, authorized and requested the President of the United States to issue a proclamation designating March 29, 1974 as "Vietnam Veterans Day"; and

Whereas, North Carolina young men and women by the thousands left their families, their jobs, their education and jeopardized their lives and their futures in order to serve our country in the Vietnamese struggle; and

Whereas, our involvement in Vietnam was in an effort to assist all peoples of the world to remain free; and

## Resolutions—1973

Whereas, that great conflict in Vietnam has now been officially declared to be at an end; and

Whereas, the majority of our young men and women who served in Vietnam have now returned to their respective homes, their loved ones, their families and their jobs; and

Whereas, the General Assembly of North Carolina wishes to recognize the North Carolina Veterans who served in Vietnam;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly does hereby honor our North Carolina Vietnam veterans, who served so honorably in Vietnam, upon their safe return home and does hereby proclaim March 29, 1974, as "Vietnam Veterans Day".

**Sec. 2.** That this General Assembly does hereby mourn for those many North Carolinians who served so honorably in Vietnam who have not yet been returned to their homes and loved ones.

**Sec. 3.** That this General Assembly respectfully requests that the people of our State join together in designating March 29, 1974, as "Vietnam Veterans Day" in recognition of the services and sacrifices of our sons and daughters who served in Vietnam.

**Sec. 4.** That a copy of this resolution be forwarded to the North Carolina Veterans Affairs Office for distribution to veterans' organizations throughout the State.

**Sec. 5.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1974.

S. R. 1292

### RESOLUTION 142

A JOINT RESOLUTION AUTHORIZING A LEGISLATIVE COMMISSION TO STUDY THE NORTH CAROLINA PESTICIDE LAW OF 1971 AND THE NORTH CAROLINA STRUCTURAL PEST LAW OF 1955.

Whereas, the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA), as amended and regulations adopted by the U.S. Environmental Protection Agency require conformity to federal standards regarding the certification of private applicators; and

Whereas, the present State Laws must be changed to comply with federal regulations in such manner as to adequately protect the economy of North Carolina and to maintain stability in the effective use of insecticides, fungicides, and rodenticides by both the private and public sectors in the State of North Carolina; and

Whereas, North Carolina being among the states with the larger number of private applicators of pesticides, particular attention shall be given to the manner of training and examination required for these private applicators; and

Whereas, the Environmental Protection Agency is still in the process of adopting regulations which may affect State pesticide laws; and

Whereas, the General Assembly desires to authorize and direct that a study commission be empaneled to inquire into and recommend General Statute changes necessary including funding required to implement the recommended changes in the North Carolina Pesticide Law of 1971 and the North Carolina

## Resolutions—1973

Structural Pest Law of 1955, and to make its report to the General Assembly and to the Governor;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby established the North Carolina Pesticide and Structural Pest Study Commission. The Commission shall consist of four senators appointed by the President of the Senate and four representatives appointed by the Speaker of the House. Membership shall include the chairmen of the Agriculture Committees of each house and such other members as shall be appointed by the respective officers. The Commission shall select its own Chairman and such other officers as it may deem necessary. Any member who is appointed may continue to serve, even though said member does not seek reelection in the General Assembly. However, in the event a vacancy shall occur because of the resignation or incapacity of any member, the vacancy shall be immediately filled by the President of the Senate or Speaker of the House who is then in office.

**Sec. 2.** The members of the Commission shall be appointed as soon after the adjournment of the General Assembly as practicable and shall serve until the report of the Commission is filed with the General Assembly and the Governor.

**Sec. 3.** The Commission shall utilize, at its discretion, the advice and consultation of the members of the North Carolina Pesticide Board, North Carolina Structural Pest Control Committee, North Carolina Department of Agriculture, U.S. Environmental Protection Agency, and North Carolina Agricultural Extension Service; and other State and federal agencies.

**Sec. 4.** The Commission shall make a report, or interim report, to the 1975 Session of the General Assembly within 15 days after the convening thereof. The Commission is authorized to continue its work, if it deems it necessary, and make its final report within 15 days after the convening of the 1977 Session of the General Assembly.

**Sec. 5.** The members of the Commission shall receive such per diem, travel and subsistence as is provided by law for legislative commissions generally, to be paid as provided by law for legislative commissions generally.

**Sec. 6.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

## H. R. 1084                      RESOLUTION 143

### A JOINT RESOLUTION CONCERNING ADULT EDUCATION PROGRAMS FOR THE UNIVERSITY OF NORTH CAROLINA TELEVISION NETWORK.

Whereas, there is a need for more widespread and easily accessible adult education in North Carolina; and

Whereas, there are many individuals in North Carolina who would like to take the high school equivalency test; and

Whereas, there needs to be some method whereby interested adults can have access to courses which would assist them in the preparation for the high school equivalency test; and

## Resolutions—1973

Whereas, it is the desire of the General Assembly to continually advance the citizens of this State educationally;  
Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

**Section 1.** The University of North Carolina Television Network is requested to schedule on a regular basis at prime viewing time, educational courses designed to prepare individuals for the high school equivalency test.

**Sec. 2.** The University of North Carolina Board of Governors is hereby requested to encourage this program and assist in its implementation.

**Sec. 3.** The State Board of Education and the Department of Community Colleges is hereby requested to encourage this program and assist in its implementation.

**Sec. 4.** That this resolution shall become a part of the records of the 1973 Session of the General Assembly and copies shall be duly certified by the Secretary of State and transmitted to the (1) Director of the University of North Carolina Television Network, (2) Members of the University of North Carolina Board of Governors, (3) the President of the University of North Carolina, (4) Members of the State Board of Education, and (5) President of the Department of Community Colleges.

**Sec. 5.** This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1974.

H. R. 1577

### RESOLUTION 144

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF  
MEWBORN BRAXTON WILSON, BUSINESSMAN AND INDUSTRIAL  
LEADER.

Whereas, Mewborn Braxton Wilson, a distinguished business and civic leader from Smithfield, North Carolina, died on May 18, 1973; and

Whereas, Mewborn Braxton Wilson was an able businessman for many years, recognized by automobile dealers throughout the State and nation for his leadership and public service; and

Whereas, he was recognized as a leader in promoting industrial development for his home county and the State; and

Whereas, he has served as President of the Smithfield Lions Clubs, as President of the Smithfield Chamber of Commerce, as Director of the Kiwanis Club of Smithfield, and on many occasions as Chairman of fund-raising committees; and

Whereas, he was named Smithfield's Citizen of the Year in 1954, was named a finalist in Saturday Evening Post's Benjamin Franklin Quality Dealer Award in 1961, and was presented the Smithfield Chamber of Commerce's Distinguished Citizen Award in 1966; and

Whereas, he was a member of the board of directors of First-Citizens Bank and Trust Company and was the first Chairman of the Board of Trustees of Johnston Technical Institute; and

Whereas, he was survived by his wife, Mrs. Ethel Benton Wilson; a son and two daughters; and

## Resolutions—1973

Whereas, the 1973 General Assembly wishes to express its sorrow at the loss of an outstanding citizen of the State of North Carolina and wishes to express its sympathy to the family of Mewborn Braxton Wilson;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly hereby expresses its appreciation of the many contributions of Mewborn Braxton Wilson to his community, county and State and its deep sense of loss suffered by his untimely death.

**Sec. 2.** That a copy of this resolution be spread upon the minutes of both the House of Representatives and the Senate and a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Mewborn Braxton Wilson.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

### H. R. 1620                      **RESOLUTION 145**

A JOINT RESOLUTION HONORING THE LIFE, MEMORY AND ACHIEVEMENTS OF EDWIN DUNCAN, SR., A FORMER MEMBER OF THE SENATE.

Whereas, the General Assembly of North Carolina has been profoundly grieved upon learning of the death of the Honorable Edwin Duncan, Sr., of Alleghany County, at the age of sixty-eight years; and

Whereas, the Honorable Edwin Duncan, Sr., was one of Alleghany County's most prominent citizens and was a member of the Senate of North Carolina from that county, from 1953 to 1955 and from 1957 to 1959; and

Whereas, through his years of service to his community, his State and his Nation, the Honorable Edwin Duncan, Sr., rendered important and lasting contributions while serving as Chairman of the Finance Committee of Alleghany Memorial Hospital at Sparta, as President of the Alleghany Development Corporation at Sparta, as a member of the Board of Visitors of Guilford College, Montreat-Anderson College and St. Andrews College, as a Trustee of Appalachian State University and the University of North Carolina at Charlotte, as a Trustee of the North Carolina Banking Commission, and a Trustee of the Greater University of North Carolina; and

Whereas, the Honorable Edwin Duncan, Sr., was a highly successful businessman and one of North Carolina's outstanding bankers; he was former President of the Northwestern Bank, Northwestern Financial Corporation and Lowe's Companies; he was a Director of Holly Farms Poultry Industries and a member of other major corporations; he is currently listed in Who's Who in America and Who's Who in Finance and Industry, and rendered distinguished service to his community; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation of his life and accomplishments and its sorrow at his death;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

## Resolutions—1973

**Section 1.** That in the death of the Honorable Edwin Duncan, Sr., the county of Alleghany and the State of North Carolina have lost one of their most distinguished, devoted and loyal citizens.

**Sec. 2.** That the General Assembly of North Carolina does hereby express its high appreciation of him as a citizen and servant of his county and his State and does extend sincere sympathy to his family.

**Sec. 3.** That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of the Honorable Edwin Duncan, Sr.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

### H. R. 1722

### RESOLUTION 146

#### A JOINT RESOLUTION COMMEMORATING THE CENTENNIAL CELEBRATION OF THE TOWN OF MAXTON.

Whereas, the Town of Maxton is proudly celebrating its centennial at this time, with festivities to begin on February 16; and

Whereas, the Town of Maxton was settled before 1861, incorporated by an act of the Legislature on February 16, 1874, as "Shoe Heel"; changed to "Quehele" and remained under that name until 1880; then changed back to "Shoe Heel" in 1880, and then in 1887, at the suggestion of Captain Blocker and Mr. William Currie, the name was changed to "Mack's Town" - "Town of the Maks" - and later shortened to "Maxton"; that by act of the General Assembly of North Carolina, in 1887, the name of Maxton was adopted and has remained ever since; and

Whereas, the Town of Maxton's sons have included Mr. Gilbert Patterson, Sr., a prominent lawyer and member of Congress; Mr. A. J. McKinnon, prominent farmer and industrialist; Mr. Malcolm McLean, founder and president of McLean Trucking Company and Sea Land Shipping Company; Mr. Henry A. McKinnon, Sr., prominent lawyer and member of the North Carolina General Assembly; Honorable Henry A. McKinnon, Jr., Resident Superior Court Judge of Robeson County; Honorable Lynwood H. Smith, prominent attorney, former Highway Commissioner and member of the General Assembly; Honorable Gus Speros, prominent building contractor and member of the General Assembly of North Carolina; and

Whereas, the Town of Maxton's original size was one square mile; and

Whereas, the Town of Maxton has been noted for its leadership in the field of education, being the home of Carolina College, a Methodist girls' school, and later the home of Presbyterian Junior College, an outstanding junior college, and later the home of Carolina Military Academy, an outstanding preparatory school for boys; and

Whereas, the Town of Maxton has been noted for its fine moral climate and a strong religious conviction of its people being graced with the services of the First Presbyterian Church, the First Methodist Church, the First Baptist Church, the Calvary Baptist Church and various other churches; and

Whereas, the Town of Maxton now enjoys the benefits of increasing industrial growth by virtue of the efforts of the Steadman Manufacturing Company, Maxton Oil and Fertilizer Company, and the other industries associated with the Maxton area; and

## Resolutions—1973

Whereas, the Town of Maxton has still retained its leadership in the field of education, industry, development and remains one of the leading and progressive towns in southeastern North Carolina keeping the strong religious convictions of its population and the warm friendliness of its population that it acquired as a small rural town;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly proudly notes the above and extends its congratulations and good wishes to the people of the Town of Maxton.

**Sec. 2.** That this resolution shall be duly certified by the Secretary of State and forthwith transmitted to the Mayor of the Town of Maxton.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

### H. R. 1805                      RESOLUTION 147

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HOWARD H. HUBBARD, FORMER JUDGE OF THE SUPERIOR COURT.

Whereas, Howard H. Hubbard, a former distinguished Judge of the Superior Court, died on the 25th day of January, 1974; and

Whereas, in the passing of Howard H. Hubbard, North Carolina and Sampson County lost one of their most beloved and respected citizens; and

Whereas, Howard H. Hubbard served with distinction and honor as a Resident Judge of the Superior Court from 1962 to 1972, and as a Special Judge from 1953 to 1955; and

Whereas, Howard H. Hubbard served with distinction and honor as an Assistant United States Attorney for the Eastern District of North Carolina from 1946 to 1951; and

Whereas, Howard H. Hubbard gave of his time and unusual talents as he served faithfully, diligently and effectively in many posts of honor and trust for the State, among them being Chairman of the North Carolina Bar Association's Committee on Legislation and Vice Chairman of the North Carolina Bar Association's Court Study Commission and as Chairman of the Committee on Court Structure and Jurisdiction; and

Whereas, Howard H. Hubbard served the citizens of Clinton and Sampson County through his efforts in the positions of City and County Attorney and also in his practice of law which began in 1927; and

Whereas, the General Assembly desires to honor the memory of Howard H. Hubbard and express its sympathy to the surviving members of his family;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly recognizes and expresses its appreciation for the public service rendered by Howard H. Hubbard, with full knowledge for many years he rendered able and valuable services in his native county and to the State of North Carolina, with devotion to duty and outstanding character of the highest degree, and with kindness and courtesy to

## Resolutions—1973

all who had the pleasure of knowing him in his personal, business, social and public life.

**Sec. 2.** That this resolution shall become a part of the public records of the 1973 General Assembly of North Carolina.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

### H. R. 1922                      **RESOLUTION 148**

**A JOINT RESOLUTION HONORING LEONARD THOMPSON FOR HIS ACHIEVEMENTS IN GOLF AND HIS HUMANITARIAN AND PHILANTHROPIC ACTS.**

Whereas, Leonard Thompson was a New Year's baby, born on January 1, 1947, in Laurinburg, Scotland County, North Carolina; and

Whereas, he is a graduate of Laurinburg High School, and attended Wake Forest University in the late 1960's, being a leading member of an excellent Wake Forest Golf Team for three seasons; and

Whereas, Leonard Thompson compiled an outstanding record as an amateur golfer, winning the Mexican Amateur, the Susquehanna Match Play and Falstaff Invitational Tournaments; and

Whereas, he earned his credentials as a touring professional and joined the touring circuit in November of 1971; and

Whereas, in 1972, he finished 61st in overall professional standings, missing the qualifying exemption standard by a couple of short putts; and

Whereas, in 1973, in the Kemper Open and World Open Tournaments, he finished strongly in third place, and finished 25th among the leading money winners on the professional circuit that year; and

Whereas, on February 24, 1974, his winning of the Jackie Gleason Inverrary Classic earned him fifty-two thousand dollars (\$52,000), and of this, he donated ten thousand dollars (\$10,000) to the Boys Clubs of America; and

Whereas, Leonard Thompson is not only a great golfer, but is also a great humanitarian, philanthropist, is unselfish and of great character, and is a credit to Laurinburg, Scotland County, and the State of North Carolina;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this legislature pay tribute to Leonard Thompson as one of the outstanding native sons of this State, not only for his achievement in the field of golf, but also for his outstanding qualities as a sportsman, humanitarian and philanthropist, and his great character.

**Sec. 2.** That a copy of this resolution be sent to Leonard Thompson.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

H. R. 1996

**RESOLUTION 149**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST L. HICKS, FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES FROM MECKLENBURG.

Whereas, Ernest L. Hicks was born the son of John Thomas Hicks and Gazella Clark Hicks in Ionia, Ionia County, Michigan, on September 15, 1892, and attended the public schools of Ionia, Michigan, Olivet College and the University of Michigan; and

Whereas, Ernest L. Hicks served his nation as an Ensign on active duty in the United States Navy during World War I; and

Whereas, Ernest L. Hicks moved to the State of North Carolina in the year 1919 and enjoyed a successful and accomplished career in private business before dedicating his time and energies to public service; and

Whereas, Ernest L. Hicks was dedicated to good public cause and served as a member of the 1953 Session of the North Carolina House of Representatives and of every session but two through the 1971 Session, totaling sixteen years; and

Whereas, Ernest L. Hicks served on numerous legislative committees involving both local and statewide issues and introduced legislation which substantially affected the growth, welfare and educational benefits of the people of his district and the people of the entire State of North Carolina; and

Whereas, during the course of his public career, Ernest L. Hicks maintained a meaningful relationship and communication between himself and his colleagues in the House and rendered service that reflected quality judgment and leadership which proved most favorable in obtaining the support required for legislation beneficial to Mecklenburg County and North Carolina; and

Whereas, Ernest L. Hicks was a committed public servant whose integrity was beyond reproach and whose dedication to the cause of good government will long be remembered in the hearts and minds of his fellow North Carolinians; and

Whereas, the North Carolina General Assembly desires to express its appreciation for the long and distinguished career and the fruitful life of Ernest L. Hicks, and desires to express its sympathy to his wife, Susan B. Hicks, and to other members of his family;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina does hereby express its appreciation for the life, the service and the example of Ernest L. Hicks.

**Sec. 2.** The General Assembly extends its sympathy to the family of Ernest L. Hicks for the loss of its distinguished member.

**Sec. 3.** This resolution shall become a part of the public record of the 1974 Session of the General Assembly of North Carolina and copies of the same shall be duly certified by the Secretary of State and by him transmitted to the family of Ernest L. Hicks.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.

S. R. 1460

**RESOLUTION 150**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF B. EVERETT JORDAN, FORMER UNITED STATES SENATOR FROM NORTH CAROLINA, WHO SERVED HIS COUNTY, STATE AND NATION WITH HONOR, DEVOTION AND DISTINCTION.

Whereas, the General Assembly of North Carolina desires to commemorate the services of B. Everett Jordan to his county, State and nation, and to express its sorrow for the loss sustained by his passing; and

Whereas, B. Everett Jordan was born September 6, 1896, in Ramseur in Randolph County, North Carolina, and was the son of a Methodist minister, the late Rev. Henry Harry and Annie Elizabeth Sellars Jordan; and

Whereas, B. Everett Jordan attended Trinity College, now Duke University; and

Whereas, B. Everett Jordan joined the tank corps of the United States Army when World War I broke out, and served with the occupation forces in Germany, returning after the war to work in North Carolina; and

Whereas, upon his return to North Carolina, B. Everett Jordan got his start in the field of textiles, a field in which he was destined to become enormously successful, his first assignment being as a sweeper in the flint mill in Gastonia, with later promotions to become superintendent of Myrtle Mills and later superintendent of Gray Mills in Gastonia; and

Whereas, in 1924, B. Everett Jordan married the former Katherine McLean, a Gastonia school teacher; and

Whereas, B. Everett Jordan and Katherine McLean Jordan came to Saxapahaw in Alamance County in 1926 to take over management of the newly incorporated Sellers Manufacturing Company, and make Sellers Manufacturing Company one of the most progressive textile mills in the State of North Carolina, later acquiring Jordan Spinning Company at Cedar Falls, Ideal Mercerizing Company in Burlington, and Royal Cotton Mills Company in Wake Forest; and

Whereas, B. Everett Jordan began to take an active interest in politics, working in the gubernatorial campaigns of Governor Clyde R. Hoey, Governor Gregg Cherry and Governor W. Kerr Scott, serving on several State boards and as President of the North Carolina Railroad; and

Whereas, B. Everett Jordan served a six-year term as Chairman of the North Carolina Democratic Executive Committee, and in 1954 was named Democratic National Committeeman from North Carolina; and

Whereas, B. Everett Jordan was appointed by Governor Luther Hodges to fill the unexpired term of the late United States Senator W. Kerr Scott who died in office, and sought re-election in 1958, 1960, 1966 and 1972; and

Whereas, during his 15 years in the United States Senate, B. Everett Jordan earned a reputation as a behind-the-scenes worker who seldom sought publicity or indulged in oratory, but concentrated on administrative affairs and winning public works projects for North Carolina, and quietly worked to see that his State got its share of federal programs and assistance and that its agricultural and commercial interests were protected; and

Whereas, during his term in the United States Senate, B. Everett Jordan served as Chairman of the Senate Committee on Rules and Administration, Chairman of the Joint Committee on the Library of the Congress and on

## Resolutions—1973

Printing, Chairman of Public Works Subcommittee on Rivers and Flood Control, and a member of Agriculture and Forestry Committee; and

Whereas, B. Everett Jordan was awarded an Honorary LL.D. Degree from Elon College, and served as a Trustee for Duke University, American University and Elon College, and was a Burlington Rotarian, a Shriner, and was awarded the Silver Beaver Boy Scout Award in 1966, and B. Everett Jordan was also a Methodist Bible School teacher since 1927, and served as Chairman of the Board of Trustees for Alamance County Hospital from its beginning; and

Whereas, B. Everett Jordan served as Chairman of the North Carolina Cancer Fund Drive 1972-1973, and on January 7, 1973, was a recipient of the North Carolina Public Service Award of the North Carolina Chapter Cystic Fibrosis Foundation, and in March, 1974, the Elon College Board of Trustees named the new physical education gymnasium the B. Everett Jordan Gymnasium; and whereas, the Alamance County Board of Education has re-named the elementary school in Saxapahaw the B. Everett Jordan School; and

Whereas, he is survived by his wife, the former Katherine McLean, of the home, and two sons, Ben E. Jordan, Jr., of Burlington, and John M. Jordan of Saxapahaw; and one daughter, Mrs. Roger Gant, Jr., of Burlington; one brother, Dr. Frank Jordan of Lake Junaluska; and one sister, Mrs. Henry Sprinkle of Mocksville; and 10 grandchildren;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The members of the General Assembly unite in expressing for themselves, the State and nation, their sorrow for the irreparable loss sustained by the death of B. Everett Jordan, who distinguished himself as an outstanding leader of his county, State and nation.

**Sec. 2.** As a token of respect to and esteem for the honored and beloved memory of B. Everett Jordan, the General Assembly hereby expresses its deepest and most sincere sympathy to the members of his family in their great loss, and expresses to them its grateful thanks for the many useful benefits derived from the distinguished services rendered by B. Everett Jordan during his lifetime.

**Sec. 3.** This resolution shall be incorporated in the permanent records of this General Assembly as a tribute and expression of respect to the memory of B. Everett Jordan, and that a copy, duly certified by the Secretary of State, be furnished to the members of his immediate family.

**Sec. 4.** This resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

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S. R. 1208

### RESOLUTION 151

A JOINT RESOLUTION COMMEMORATING THE LIFE AND MEMORY OF JOSEPH A. SMITH.

Whereas, Joseph A. Smith, who joined the United States Air Force in 1951, was assigned to the 46th Air Police Squadron, Pope Field, North Carolina, and after the completion of three tours of duty in Vietnam and upon his retirement from the Air Force in 1971 became a resident of Cumberland County and a member of the Cumberland County Sheriff's Department; and

Whereas, as a Deputy Sheriff and citizen of Cumberland County Joseph A. Smith served that county and the State of North Carolina in an exemplary manner; and

Whereas, at approximately 1:30 a.m. on January 6, 1974, while rendering aid to a motorist and in the performance of his duties, Deputy Sheriff Joseph A. Smith was shot without provocation and mortally wounded; and

Whereas, Deputy Sheriff Joseph A. Smith is survived by his wife and six children ranging in age from 1 1/2 to 17 years; and

Whereas, the General Assembly desires to honor the memory of Joseph A. Smith and to extend its sympathy to the surviving members of his family;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That in the death of Joseph A. Smith, North Carolina and Cumberland County have lost an able law enforcement officer and highly respected citizen.

**Sec. 2.** A copy of this resolution, duly certified by the Secretary of State, shall be furnished to the family of Joseph A. Smith.

**Sec. 3.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

S. R. 1458

### RESOLUTION 152

A JOINT RESOLUTION HONORING THE ROTC UNITS AND MEMBERS IN NORTH CAROLINA AND OUR NATION.

Whereas, we recognize that freedom is earned, not freely given; and

Whereas, we recognize that freedom must be preserved by those who would choose to remain free; and

Whereas, America, one of the great free nations of all times, has always had an abundance of men and women who would come to their country's aid whenever its safety was in danger and the freedom of its people at stake; and

Whereas, this nation and this State owe their freedom and continued prosperity not only to those young men and women who have sacrificed and fought in this nation's wars, but also to those young men and women who prepare themselves to carry on this valiant tradition; and

Whereas, we can be justly proud of these young men and women who prepare to preserve our nation and our State and who endeavor to bring peace to our world; and

Whereas, there are 1,609 ROTC cadets in North Carolina's college programs - 665 Army, 270 Navy, and 674 Air Force; and

## Resolutions—1973

Whereas, there are 7,183 Junior ROTC cadets in North Carolina - 3,350 Army, 947 Navy and 2,886 Air Force; and

Whereas, there are 61,082 ROTC cadets in our nation - 33,220 Army, 7,513 Navy, and 20,349 Air Force; and

Whereas, there are now 15 Senior ROTC units in North Carolina - 6 Army, 3 Navy, and 6 Air Force; and

Whereas, this summer St. Augustine's College will become a full AROTC Senior unit, making 7 Senior ROTC units in North Carolina for the Army; and

Whereas, there are now 51 Junior ROTC schools in North Carolina - 20 Army, 8 Navy, and 23 Air Force;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the North Carolina General Assembly, speaking on behalf of all the citizens of North Carolina, expresses its deep appreciation to and its admiration for these ROTC cadets for their devotion to our nation and our State.

**Sec. 2.** That the North Carolina General Assembly further recognizes the great and important part that ROTC cadets play in guaranteeing the freedom and safety of our nation and State.

**Sec. 3.** That the North Carolina General Assembly hereby expresses its complete and total support and backing to all ROTC cadets in North Carolina.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1974.

### H. R. 2052                      **RESOLUTION 153**

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MARGARET BAGGETT DOLAN.

Whereas, Margaret Baggett Dolan, a distinguished public health nurse and former chairman of the department of Public Health Nursing at the University of North Carolina at Chapel Hill, died on February 27, 1974; and

Whereas, in the passing of Margaret Baggett Dolan, North Carolina and Orange County lost one of their beloved and respected citizens; and

Whereas, Mrs. Dolan was born in Lillington, North Carolina, on March 17, 1914, to Mr. and Mrs. John Robert Baggett and was educated at Anderson College, Georgetown University, and the University of North Carolina; and received graduate degrees from Columbia University and Syracuse University; and

Whereas, Mrs. Dolan was awarded honorary degrees from Duke University and the University of Illinois; and

Whereas, Margaret Dolan was the first female North Carolinian to serve as president of the American Public Health Association; and

Whereas, she served as president of the American Nurses Association and president of the National Health Council and thus is the only person ever to serve as president of three national health organizations; and

Whereas, Mrs. Dolan has served on dozens of national and State committees studying and solving the problems of health care in the United States; and

## Resolutions—1973

Whereas, in all of her busy and productive life, Mrs. Margaret Dolan remained a beloved friend and confidant to many citizens of Chapel Hill and to the many students from throughout the State who enjoyed the privilege of being her students in the School of Public Health at the University of North Carolina at Chapel Hill; and

Whereas, in their wisdom the American Nurses Association gave Mrs. Dolan its highest honor, the Pearl McIver Award, and Georgetown University presented her with its distinguished alumni honor, the John Carroll Award; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation of her life and accomplishments and its sorrow on her death;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly recognizes the contributions and mourns the passing of Margaret Baggett Dolan, distinguished, devoted and loyal citizen of North Carolina, and extends its sympathy to her husband, Charles Dolan, and her several brothers and sisters.

**Sec. 2.** That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of Margaret Baggett Dolan.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

H. R. 2064

### RESOLUTION 154

A JOINT RESOLUTION TO ESTABLISH THE FISHERIES TRAINING VESSEL STUDY COMMISSION.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** There is hereby created the Fisheries Training Vessel Study Commission which shall have the following duties and responsibilities:

(1) To determine the need for training vessels; to determine the number and kinds of vessels necessary to provide North Carolina's students of vocational fisheries the highest educational, training and experience opportunities; to determine the optimum navigation, safety, propulsion and fishing equipment for each class of vessel, and to make recommendations to the General Assembly and the State Board of Education.

(2) To investigate sources of funding for obtaining and equipping training vessels, and to make recommendations to appropriate agencies that they seek funds.

(3) To establish criteria for dockage, scheduling, maintenance, ownership, insuring, operating and financing for the efficient prosecution of the Vocational Fisheries Program, and to recommend these criteria to the State Board of Education.

(4) To recommend an administrative structure or organization or agency to direct and manage the training vessel program for maximum training opportunities for vocational fisheries students.

(5) To make such other recommendations as may be determined by the Commission to be in the best interest of the training vessel program.

**Sec. 2.** The Fisheries Training Vessel Study Commission shall consist of:

## Resolutions—1973

(1) The Chairman, who shall be a representative of the fishing industry, and who shall be appointed by the Lieutenant Governor;

(2) A teacher of vocational fisheries or marine occupations, who shall be appointed by the Lieutenant Governor;

(3) A representative of a local school administrative unit, who shall be appointed by the Speaker of the House;

(4) A State Senator, who shall be appointed by the Lieutenant Governor;

(5) A State Representative, who shall be appointed by the Speaker of the House.

**Sec. 3.** The members of the Fisheries Training Vessel Study Commission shall be appointed by the Lieutenant Governor and Speaker of the House within 60 calendar days of the ratification of this resolution and shall serve until resignation or until the Commission does expire. Should a vacancy occur, a replacement shall be appointed who has the same qualifications as the person replaced, as stated in Section 2 of this resolution.

**Sec. 4.** The Fisheries Training Vessel Study Commission shall exist until June 30, 1975. It shall conduct its business so that matters involving legislative considerations will be reported prior to the convening of the 1975 General Assembly, and matters involving policy and administrative considerations will be reported prior to the termination of the Commission on June 30, 1975.

**Sec. 5.** The members of the Commission shall be entitled to receive per diem, subsistence, and expenses allowable to members of State boards and commissions generally, pursuant to G.S. 138-5. Staff assistance and clerical help shall be supplied by the State Board of Education.

**Sec. 6.** The Commission shall adopt its own rules of procedure and shall meet at such times and places as it may deem necessary to carry out its functions. The Commission is authorized to secure from any department, agency, or independent instrumentality of the State government any information it deems necessary to carry out its functions. Each department, agency, and independent instrumentality is authorized to cooperate with the Commission, and to the extent permitted by law, to furnish such information to the Commission, upon request made by the chairman.

**Sec. 7.** Expenses of the Commission shall be paid from funds made available by the Superintendent of Public Instruction, who is hereby authorized to transfer to the Commission fund from any appropriated but unexpended funds of the Department of Public Instruction.

**Sec. 8.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1974.

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H. R. 1984

### RESOLUTION 155

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HARRY P. HORTON.

Whereas, the General Assembly of North Carolina has been grieved by the death of the Honorable Harry P. Horton of Chatham County, who died at the age of 53 years; and

Whereas, the Honorable Harry P. Horton was one of Chatham County's most prominent citizens and was a member of the North Carolina House of Representatives from that county in 1959 and a member of the North Carolina Senate in 1963; and

Whereas, he was born on April 12, 1920, was raised by his adoptive parents, the late Judge and Lieutenant Governor Wilkins P. Horton and Casandra Horton of Pittsboro, and was educated at Virginia Episcopal School, the University of North Carolina and obtained his law degree from the University of North Carolina School of Law; and

Whereas, through his years of service to his community and his State, the Honorable Harry P. Horton served as Attorney for the Town of Pittsboro, served as a member and officer for many years of the Pittsboro United Methodist Church, served as master of Columbus Lodge 102 of Pittsboro and contributed greatly to the civic and business life of his community; and

Whereas, he served as a practicing attorney in the Town of Pittsboro from 1949 until 1968 at which time he was elected the first chief judge of the 15th Judicial District serving Chatham, Alamance and Orange counties and retained said post until his death on January 3, 1974; and that while serving said post was instrumental in establishing an effective district court system including the Juvenile Counseling Division for said district; and

Whereas, the General Assembly of North Carolina wishes to make record of its appreciation of his life and accomplishments and its sorrow at his death;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina recognizes the contributions and mourns the passing of Harry P. Horton, great son of North Carolina, and extends its sympathy to his wife and children.

**Sec. 2.** That a copy of this resolution shall be duly certified by the Secretary of State and by him transmitted to the family of the Honorable Harry P. Horton.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

## Resolutions—1973

H. R. 1997

### RESOLUTION 156

A JOINT RESOLUTION COMMENDING THE NORTH CAROLINA JUSTICE FOUNDATION AND RECOMMENDING THE EXPANSION OF ITS SCHOOL PROGRAMS.

Whereas, the North Carolina Justice Foundation has written and caused to be published a book entitled *Youth and the Law*; and

Whereas, the Department of Public Instruction has developed a teacher's guide and caused the book *Youth and the Law* and the teacher's guide to be distributed to every school system in the State of North Carolina; and

Whereas, the Division of Social Studies of the Department of Public Instruction is providing counseling seminars in the use of this material to school systems requesting their assistance; and

Whereas, the book *Youth and the Law* has been specifically designed to interpret, explain and instruct young people at the eighth and ninth grade levels as to the responsibilities and penalties under the law in our democratic society; and

Whereas, the book *Youth and the Law* is intended to help instill a sense of respect for and interest in the law; and

Whereas, the Crime Study Commission has determined that a need exists for more effective law-focused instruction within the public schools; and

Whereas, upon directly contacting various school systems, the Crime Study Commission found the material to be in wide use in the junior high schools of this State; and

Whereas, a survey conducted by the Division of Social Studies indicated an overwhelming favorable response from both students and teachers; and

Whereas, nearly 90,000 copies of the book *Youth and the Law* have been distributed to North Carolina public schools and over 4,000 copies have been distributed upon requests from teachers, public service organizations and private citizens throughout the nation;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina expresses its appreciation and hereby commends the North Carolina Justice Foundation and its staff for their innovative and dedicated work in this most important crime preventive work.

**Sec. 2.** The General Assembly of North Carolina recognizes and applauds the creative and innovative use of this material by several school systems during the past year and recommends that the programs thus developed be expanded and improved to the end that every eighth and ninth grade student in North Carolina shall be instilled with a high sense of confidence in and respect for the law and law enforcement authorities throughout this State and nation.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

## Resolutions—1973

H. R. 2013

### RESOLUTION 157

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE BASKETBALL TEAM AT THE NORTH CAROLINA SCHOOL FOR THE DEAF IN MORGANTON FOR ITS OUTSTANDING PAST RECORD AND ITS PERFORMANCE IN WINNING THE 1974 MASON-DIXON BASKETBALL TOURNAMENT CHAMPIONSHIP.

Whereas, the basketball team of the North Carolina School for the Deaf (N. C. S. D.) in Morganton has maintained an outstanding record during its twenty-two year existence and participation in the Mason-Dixon Basketball Tournament, the largest single athletic event among schools for the deaf in the United States, having won the championship in 1953, 1955, 1956 and 1958 and placed second in 1972 and third in 1973; and

Whereas, the 1973-1974 basketball team of the North Carolina School for the Deaf composed of Charles Dawkins of Randleman, Stanley Houston of Waxhaw, James Wilson of Gastonia, Craig Brown and Jerome Brown of Raleigh, Jerome Moore of Burgaw, Ricky Cordell of Morganton, J. J. (Marvin) Williams of Asheboro, Vaughn Buchanan of Stanley, Roosevelt Odom of Fayetteville, Lee Newsome of Fayetteville, and Don Wells of Stedman, Manager, Elmer Dillingham, Head Coach, and Tom Maye, Assistant Coach, competing against teams from 10 states, won the 1974 championship; and

Whereas, the high performance and sportsmanship of this team, and each member thereof, has brought honor to the North Carolina School for the Deaf and to the entire State of North Carolina;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina, on behalf of the people of North Carolina, congratulates and commends the basketball team and the coaches of the North Carolina School for the Deaf for their achievement in winning the 1974 Mason-Dixon Basketball Tournament Championship and likewise congratulates and commends the North Carolina School for the Deaf for its past and present contributions in athletic achievement.

**Sec. 2.** That a certified copy of this resolution be prepared by the Secretary of State and sent to each individual named herein, and to Mr. Don Westmoreland, Athletic Director for the North Carolina School for the Deaf, for appropriate display as symbols of the appreciation and pleasure of this General Assembly and the people of North Carolina in their accomplishments, and that this resolution be made a part of the permanent records of the 1974 General Assembly.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

## Resolutions—1973

H. R. 2051

### RESOLUTION 158

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF H. SMITH WILLIAMS.

Whereas, H. Smith Williams, one of the State's most distinguished citizens, died on March 2, 1974, in Yadkinville, North Carolina, the General Assembly in recognition of the deep debt which this State and its people owe him, desire to honor his life, his service and memory; and

Whereas, H. Smith Williams was born on May 13, 1924, in the Pilot View Community of Yadkin County, North Carolina, the son of Columbus and Pearl Davis Williams; and

Whereas, upon graduation from Yadkinville High School he attended Catawba College and the University of North Carolina, entering the Navy during World War II, where he served his country well; and

Whereas, after his service in the Navy he returned to the University of North Carolina and graduated from that institution in 1949. He then entered Law School at the University, and received his Law Degree in 1951; and

Whereas, he then returned to his native county and began the practice of law. Shortly thereafter, he was elected to the General Assembly and during the 1953, 1955 and 1957 Sessions served the citizens of his county and his State with great ability, dedication and integrity; and

Whereas, in 1960 he was appointed as Judge of the Yadkin County Recorder's Court and served with distinction in that post until November of 1970, when the district court system was established. He was known as a fair and thoughtful judge, never losing his judicial calm. His decisions were just and rarely appealed. When appealed, they were rarely reversed; and

Whereas, he served with distinction and ability as the County Attorney for Yadkin County through December of 1973, when his health failed; and

Whereas, H. Smith Williams married Betty Jo Hutchens in 1963, and to that union were born three children, Dixie Jo, Ted and H. Smith Williams, Jr.; and

Whereas, H. Smith Williams was an active and dedicated member of his church, serving as Treasurer of the Pilot View Friends Church and for many years as a Sunday School Teacher;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly honors the memory of H. Smith Williams and expresses its deep gratitude and appreciation and the gratitude and appreciation of this State and its citizens for his life and service to North Carolina.

**Sec. 2.** That a certified copy of this resolution be transmitted by the Secretary of State to the family of H. Smith Williams.

**Sec. 3.** That this resolution shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

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H. R. 2056

### RESOLUTION 159

A JOINT RESOLUTION HONORING THE MEMORY OF ROGER RAY JACKSON, JR., FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES, FROM HERTFORD COUNTY.

Whereas, the Honorable Roger Ray Jackson, Jr., who was born on March 20, 1928, was a member of the House of Representatives from Hertford County for the sessions of 1959 and 1961. In 1962 he was appointed Assistant Director of the North Carolina Highway Commission. Since the convening of the current session of the General Assembly, he passed away while in his mid-40's; and

Whereas, Roger Ray Jackson, Jr., throughout his active and useful life, served his native State, county, and local community with honor, distinction, and credit; and

Whereas, many members of the current General Assembly recall with appreciation his magnetic personality and great devotion to his State, county, family, and friends, as well as to programs for a better way of life for the enjoyment of all people;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The General Assembly of North Carolina hereby expresses its heartfelt appreciation for the life of Roger Ray Jackson, Jr., and extends sympathy to his family.

**Sec. 2.** A copy of this resolution, duly certified by the Secretary of State, shall be sent to Mrs. Jackson who survives him and now resides at Murfreesboro, North Carolina.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

H. R. 2063

### RESOLUTION 160

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF O. O. ALLSBROOK, FORMER MAYOR OF WILMINGTON.

Whereas, O. O. Allsbrook, a resident of New Hanover County, died on February 2, 1974 at the age of 74; and

Whereas, during the lifetime of O. O. Allsbrook, he rendered outstanding service to his community, county, State and nation as is demonstrated by his record as former Mayor of the City of Wilmington for eight years, past president of the Wilmington Rotary Club, past president of the Wilmington Chamber of Commerce, past president of the Cape Fear Club, a former member of the Board of Trustees of Wake Forest University and the National Board of the United States Navy League, and a member of the Board of the Young Men's Christian Association; and

Whereas, O. O. Allsbrook is generally regarded as the man who made Wilmington into a Coast Guard City; and

Whereas, O. O. Allsbrook, during his lifetime, continually strived to make

## Resolutions—1973

each day more meaningful than the last and demonstrated a unique ability to improve the quality of the lives of the people he served;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That in the death of O. O. Allsbrook the State of North Carolina has lost a most able, useful and loyal citizen.

**Sec. 2.** That the General Assembly does hereby express its sincere appreciation and gratitude for the life and services of O. O. Allsbrook as a citizen and public servant of North Carolina.

**Sec. 3.** That the General Assembly extends its deepest sympathy to the family of O. O. Allsbrook for the loss of its distinguished member.

**Sec. 4.** That a copy of this resolution shall be certified by the Secretary of State and transmitted to the family of O. O. Allsbrook.

**Sec. 5.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

H. R. 2089

### RESOLUTION 161

A JOINT RESOLUTION IN APPRECIATION OF THE LIFE AND SERVICES OF THE LATE JOSEPH NEWSOME VANN, FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES.

Whereas, on September 24, 1972, the State of North Carolina suffered a great loss in the death of the Honorable Joseph Newsome Vann, who passed away at the age of 89 years at his home in the Town of Ahoskie, in his native County of Hertford, State of North Carolina; and

Whereas, Joseph Newsome Vann, throughout the years of a long, dedicated and fruitful life, gave tirelessly and unselfishly of his time, energy, and talents in the interest of his friends and for the betterment of his State and County; and

Whereas, in the course of an active career he served his community in various official and unofficial capacities, contributing in many ways to the religious, civic, educational, political, and agricultural advancement of his section; and

Whereas, he served his county ably, energetically and with distinction during the 1933, 1935, and 1943 sessions of the North Carolina General Assembly as an outstanding member of the House of Representatives from Hertford County; and

Whereas, in 1953 he was appointed a member of the State Stream Sanitation Committee; and

Whereas, his passing means to many of us the loss of a loyal personal friend, and to the State and Hertford County the loss of an outstanding and long to be remembered esteemed citizen, and to the State and Hertford County the loss of an outstanding public servant;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina desires by this Resolution to give formal expression to its appreciation of the life and character of Joseph Newsome Vann, and its sympathy to those who were near and dear to him.

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**Sec. 2.** That three copies of this Resolution, duly certified by the Secretary of State, shall be furnished to his family.

**Sec. 3.** That this Resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

### H. R. 2120                      **RESOLUTION 162**

A JOINT RESOLUTION CONGRATULATING DAVID THOMPSON, NORTH CAROLINA STATE UNIVERSITY BASKETBALL PLAYER.

Whereas, David Thompson of Cleveland County and a graduate of Crest High School near Lattimore, North Carolina, has been selected first-team All-American by virtually every basketball coach, writer and fan in the nation for the second year in a row; and

Whereas, for the second year in a row he has led the North Carolina State Wolfpack to its second straight undefeated conference schedule in the toughest nonprofessional basketball conference in the world, leading the conference in scoring and being selected as player of the year for the second straight year; and

Whereas, David Thompson played on the American team that defeated the Russians in the World Games in Moscow last year and was highly instrumental in leading the Americans to victory there avenging the loss in the Olympics; and

Whereas, David Thompson was named by Associated Press as College Player of the Year;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this august body do honor and pay tribute to these outstanding achievements by David Thompson.

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

### H. R. 2143                      **RESOLUTION 163**

A JOINT RESOLUTION CONGRATULATING THE NORTH CAROLINA STATE UNIVERSITY BASKETBALL TEAM.

Whereas, the North Carolina State University basketball team has just concluded the greatest season in the University's history winning 29 games and the National Championship and losing only one game; and

Whereas, the United Press International and Associated Press polls have rated them number one in the Nation; and

Whereas, Norman Sloan, Coach of the Wolfpack, has been named Atlantic Coast Conference Coach of the Year for the second year in a row; and

Whereas, two native sons of this State, namely David Thompson of Shelby and Tommy Burleson of Newland, have received the highest individual recognition possible, with Thompson being unanimous first-team All-American for the second year in a row and also All-ACC and Player of the Year while leading the ACC in scoring for the second year in a row with a new North Carolina State University individual scoring record of 26 points per game and Burleson made the All-Conference and All-American Second Team; and

## Resolutions—1973

Whereas, there are three other North Carolinians on the team who have contributed greatly to its success, Phil Spence and Dwight Johnson of Raleigh and Jerry Hunt of Shelby; and

Whereas, the non-North Carolinians on this team were led by the great Monty Towe, who made numerous All-Conference, All-Tournament and All-American Team selections, Morris Rivers, Tim Stoddard, Steve Nuce, Greg Hawkins, Mark Moeller, Bill Lake, Craig Kuszmaul, Bruce Dayhuff, Ken Gehring and Steve Smith, all of whom contributed greatly to the spreading of the good North Carolina name throughout this country and the world through the success of this fine basketball team; and

Whereas, in winning the National Championship, North Carolina State defeated the other 4 teams listed in the top 5 teams in the Nation, an accomplishment never equalled before even by UCLA; and

Whereas, this great team terminated the domination of UCLA in the field of college basketball and established North Carolina in particular and the Atlantic Coast Conference in general as the homeland of the greatest amateur basketball in the world;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this august body do honor and pay tribute to these outstanding achievements by North Carolina State University student-athletes and coaches at the conclusion of this great basketball season.

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

### H. R. 2150                      **RESOLUTION 164**

#### A JOINT RESOLUTION HONORING THE GREENSBORO YMCA ALL STAR BASKETBALL TEAM.

Whereas, the Greensboro Young Men's Christian Association 12 Year Old All Star Basketball Team, coached by Bob Kennerly and Bob Watkins, participated in and won the Southeast Regional YMCA Invitational Boys' Basketball Tournament in Daytona Beach, Florida, in March, 1974; and

Whereas, said basketball team consists of the following players: Paul Baynard, Dwight Canada, Kemp Clendenin, Robert Darnell, Randy Doss, Brad Dunker, Rod Elkins, Todd Ferrell, Harlan Frye, Jim Gaylon, Bill Holt, Todd Kincaid, Rhett Mabry, Kyle Neve, Greg Page, Chuck Patterson, Eddie Pierce, Alan Ralls, Vance Schiffman, Charles Talley; and

Whereas, the team won the tournament after playing five different teams and completely demolishing their opposition, including defeating Fort Pierce, Florida, by a score of 66 to 40 in the semi-final game and Daytona Beach, Florida, by a score of 50 to 45 in the final game; and

Whereas, the members of the team are unselfish individuals who take pride in team accomplishment and achievement, above individual performance and recognition;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

## Resolutions—1973

**Section 1.** The General Assembly of North Carolina hereby congratulates the Greensboro YMCA All Stars for their team accomplishment and achievement, and sportsman-like conduct in winning the 1974 Southeast Regional YMCA Invitational Boys' Basketball Tournament in Daytona Beach, Florida.

**Sec. 2.** A copy of this resolution, duly certified by the Secretary of State, shall be sent to the Greensboro YMCA, 1015 West Market Street, Greensboro, North Carolina, 27401.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

H. R. 2153

### RESOLUTION 165

A JOINT RESOLUTION HONORING TOMMY BURLESON FOR HIS OUTSTANDING ACHIEVEMENTS AS A NORTH CAROLINA STATE UNIVERSITY BASKETBALL PLAYER.

Whereas, Tommy Burleson of Avery County and a graduate of Avery High School, Newland, North Carolina, has been an outstanding varsity basketball player at North Carolina State University for three years and has been named to numerous All-American teams; and

Whereas, Tommy Burleson has twice been selected to receive the Everett Case Award as the most valuable player in the Atlantic Coast Conference Tournament and through his outstanding performances in the Atlantic Coast Conference Tournament has lead the Wolfpack basketball team to two consecutive conference championships; and

Whereas, Tommy Burleson has brought recognition and honor to his native State of North Carolina through his participation in the Olympic Games and the World University Games; and

Whereas, Tommy Burleson has been instrumental in leading his team to the National Collegiate Athletic Association Basketball Championship by averaging 22 points and 14 rebounds per game in post-season tournament play in

averaging 22 points and 14 rebounds per game in post-season tournament play in 1974 while being defended by such All-Americans as Len Elmore, Marvin Barnes and Bill Walton; and

Whereas, Tommy Burleson has been selected to the All-Atlantic Coast Conference Basketball Team three years in succession and has received many other awards, too numerous to mention; and

Whereas, through his spirit, determination and courage on the basketball court Tommy Burleson has been a source of inspiration and pride to all North Carolinians;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That this General Assembly pay tribute to Tommy Burleson as a truly outstanding native son of this State.

**Sec. 2.** That a copy of this resolution be sent to Tommy Burleson and his coach, Norman Sloan, of North Carolina State University.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

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H. R. 2154

### RESOLUTION 166

A JOINT RESOLUTION HONORING THE MAXTON HIGH SCHOOL FOOTBALL AND BASKETBALL TEAMS.

Whereas, Maxton High School of Maxton, North Carolina, has achieved prominence in high school athletic competition during the 1973-74 academic year; and

Whereas, the football team of Maxton High School, known as the "Golden Eagles Football Team" was molded into an outstanding team under the tutelage of Coach Roy Vaughn and Assistant Coaches Jerry Dixon and Richard Thomas; and

Whereas, the Golden Eagles Football Team compiled a record of ten victories and no defeats in winning the Cape Fear Conference Championship for 1974; and

Whereas, the Golden Eagles Football Team advanced to the finals of the State 1-A Football Championship of the North Carolina High School Athletic Association; and

Whereas, the Golden Eagles Football Team earned honors as the runner-up in the Western Division Playoffs, with an overall season's record of eleven victories and only one defeat; and

Whereas, the Boys' Basketball Team of Maxton High School, known as the Golden Eagles Basketball Team, earned laurels as the Cape Fear Conference Champion for 1973-74, with a record of 19 victories and only one defeat; and

Whereas, under the capable and dedicated leadership of Coach Roy Vaughn, the Golden Eagles Basketball Team won the State 1-A, District IV Playoffs enroute to the finals of the State 1-A Basketball Championship of the North Carolina High School Athletic Association; and

Whereas, the Golden Eagles Basketball Team participated in said State Championship Finals and distinguished itself by winning the State 1-A Basketball Championship of the North Carolina High School Athletic Association for 1973-74; and

Whereas, the Golden Eagles Basketball Team had previously excelled by placing fourth in the 1972 Finals of the State 1-A High School Basketball Championship; and

Whereas, both the Golden Eagles Football Team and the Golden Eagles Basketball Team were composed of outstanding young men from different and diverse racial and ethnic backgrounds who combined their talents to attain these remarkable records of accomplishment; and

Whereas, the performance of these teams and the spirit of cooperation exhibited by members of these teams have served to enhance racial relations and foster greater understanding among people of different racial and ethnic backgrounds in and around the Town of Maxton, North Carolina; and

Whereas, these victorious teams were honored for their accomplishments by a resolution adopted on March 18, 1974, by the Maxton Board of Education of the Maxton City Administrative Unit;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the Maxton High School Football Team of 1973, including the team members, the coaching staff, the team assistants and the many other persons who contributed to the success of this great team, is hereby

## Resolutions—1973

commended for its outstanding feats on the gridiron and is further congratulated for reaching the Finals of the State 1-A Football Championship.

**Sec. 2.** That the Maxton High School Boys' Basketball Team of 1973-74, including the team members, the coaching staff, the team assistants and the many other persons who contributed to the success of this championship team, is hereby commended and congratulated for its splendid accomplishments in capturing the State 1-A Basketball Championship of the North Carolina High School Athletic Association for the 1973-74 season.

**Sec. 3.** That copies of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to Coach Roy Vaughn of Maxton High School and Superintendent Douglas Y. Yongue of the Maxton Board of Education, on behalf of the Golden Eagles Football Team and Basketball Team.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of April, 1974.

### H. R. 1696

### RESOLUTION 167

A JOINT RESOLUTION DIRECTING STUDY OF CREATING PUBLIC DEFENDERS OFFICE FOR ONSLOW COUNTY.

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The North Carolina Courts Commission shall study the question of establishing the office of public defender in Onslow County and report its findings, conclusions and recommendations to the respective houses of the General Assembly no later than February 1, 1975.

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

### H. R. 2180

### RESOLUTION 168

A JOINT RESOLUTION CONGRATULATING AND COMMENDING THE VANCE COUNTY SENIOR HIGH SCHOOL BASKETBALL TEAM FOR WINNING THE STATE 4A BASKETBALL TOURNAMENT AND BECOMING THE STATE 4A BASKETBALL CHAMPIONS.

Whereas, on March 2, 1974, in Greensboro, North Carolina, the Vance County Senior High School basketball team defeated the Seventy-First High School basketball team of Cumberland County in the finals of the State 4A Basketball Tournament, thus becoming the State 4A basketball champions; and

Whereas, the championship game marked the twenty-sixth win for the Vance County Senior High School basketball team during this basketball season; and

Whereas, the Vance County Senior High School basketball team is the only men's high school basketball team in the State which went undefeated during this season's play; and

Whereas, the Vance County Senior High School basketball team is coached by Joe Stepusin, who has won 310 basketball games during his coaching career, all with Vance County teams; and

## Resolutions—1973

Whereas, the Athletic Director for the Vance County Senior High School is John A. Parham; and

Whereas, the manager of the Vance County Senior High School basketball team is Gary Lockamy; and

Whereas, the assistant coaches of the Vance County Senior High School basketball team are Lucious Bullock and Jim Overby; and

Whereas, the members of the Vance County Senior High School basketball team are Tommy Ellington, James Marrow, John Brown, Durwood Dement, Mac Foster, Preston Powers, Rudolph Rainey, Jimmy Roberts, Gilbert Glasgow, Victor Steed and Lassiter Allen; and

Whereas, the title won by this basketball team is the first basketball championship a Vance County school has ever won; and

Whereas, the Vance County Board of Commissioners, Mayor George Boyd of Henderson, and the Vance County Board of Education honored the Vance County Senior High School basketball team on March 15, 1974, by proclaiming that day to be "Viking Day" and by having a parade and a banquet to commemorate "Viking Day"; and

Whereas, the achievements of the Vance County Senior High School basketball team have been a great source of pride for the residents of Vance County;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the General Assembly of North Carolina, in behalf of the people of North Carolina, congratulates and commends the Vance County Senior High School basketball team, Coach Joe Stepusin, Athletic Director John A. Parham, Manager Gary Lockamy, Assistant Coaches Lucious Bullock and Jim Overby, and the senior high school which they so admirably represented in winning the State 4A basketball championship, and conveys to them its best wishes in their future endeavors.

**Sec. 2.** That a copy of this resolution shall be duly certified by the Secretary of State and forthwith transmitted by him to each member of the team and staff.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.

H. R. 2128

### RESOLUTION 169

A JOINT RESOLUTION CONGRATULATING MRS. ALBERT R. PHILLIPS FOR BEING SELECTED AS NORTH CAROLINA'S MOTHER OF THE YEAR AND COMMENDING HER TO THE AMERICAN MOTHERS COMMITTEE, INCORPORATED, FOR THEIR NOMINATION AS AMERICAN MOTHER OF THE YEAR.

Whereas, Mrs. Albert R. Phillips of the Dalton Community, King, North Carolina, was recently selected as North Carolina's Mother of the Year and thus became this State's nomination for American Mother of the Year; and

Whereas, Mrs. Phillips is the mother of four children and has eight grandchildren and one great grandchild; and

## Resolutions—1973

Whereas, Mrs. Phillips has lived a life dedicated to the service of her family, her community, her nation and the world and has been a devoted mother, missionary, educator and church and community leader; and

Whereas, Mrs. Phillips has received numerous citations for her work with low income families in encouraging them and assisting them in improving their conditions through better education; and

Whereas, Mrs. Phillips, as a former missionary, teacher, religious and community leader in Stokes County and the surrounding area, has inspired young people by her dedicated service; and

Whereas, Mrs. Phillips, if selected American Mother of the Year, would bring credit and honor upon the women of her State and Nation;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** Mrs. Albert R. Phillips is hereby commended for her selection as North Carolina's Mother of the Year.

**Sec. 2.** The General Assembly of North Carolina does hereby recommend to the American Mothers Committee, Incorporated, the nomination of Mrs. Albert R. Phillips as the American Mother of the Year.

**Sec. 3.** A copy of this resolution shall be certified by the Secretary of State and forwarded to Mrs. Albert R. Phillips, Dalton Road, Pinnacle, North Carolina.

**Sec. 4.** A copy of this resolution shall be certified by the Secretary of State and forwarded to the American Mothers Committee, Incorporated, 522 Lexington Avenue, New York, New York.

**Sec. 5.** This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 646

### RESOLUTION 170

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES TO STUDY THE FEASIBILITY OF INCLUDING A SEGMENT OF THE SOUTH FORK OF THE NEW RIVER AS PART OF THE NATURAL AND SCENIC RIVERS SYSTEM.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The Department of Natural and Economic Resources is authorized and directed to undertake a study to determine the feasibility of including in the Natural and Scenic River System that segment of the South Fork of the New River extending from U.S. Highway 421 Bridge east of Boone in Watauga County to the Virginia border.

**Sec. 2.** The said Department of Natural and Economic Resources shall report its findings to the General Assembly on or before January 15, 1975.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## Resolutions—1973

H. R. 2021

### RESOLUTION 171

A JOINT RESOLUTION PROVIDING FOR A STUDY OF THE VETERINARY MEDICAL EDUCATION NEEDS OF THE STATE.

Whereas, the livestock industry in North Carolina is growing in importance and is one of our principal income-producing activities; and

Whereas, there is need for additional persons to enter the practice of veterinary medicine in North Carolina; and

Whereas, there is no program for the training of doctors of veterinary medicine in North Carolina; and

Whereas, it may be desirable to work cooperatively with adjoining states to meet the needs of North Carolina and such other states for additional veterinary medical practitioners; but in any event there is an ever-increasing need to begin the training by more North Carolina citizens in the field of veterinary medicine; and

Whereas, the Board of Governors of the University of North Carolina has access to various studies that have been made and has the capability and statutory authority to complete such a study regarding training doctors of veterinary medicine in North Carolina and to develop an appropriate plan and program;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Board of Governors of the University of North Carolina, as a part of the long-range plan for a coordinated system of higher education that it has been directed by G.S. 116-11(1) to prepare, is requested to give special attention to the need for training additional veterinary medical practitioners for North Carolina, and to report to the General Assembly of 1975, by not later than the 30th legislative day of the Session, its findings and recommendations for administrative and legislative action with respect to the extent of the need for and the most effective and economical means of training additional veterinary medical practitioners for North Carolina.

**Sec. 2.** To the extent feasible the Board shall include its recommendations to the Governor and the Advisory Budget Commission for submission to the 1975 General Assembly, as part of its appropriations requests for fiscal years 1974-1976.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## Resolutions—1973

S. R. 1417

### RESOLUTION 172

A JOINT RESOLUTION DIRECTING THE STATE BOARD OF EDUCATION TO CONDUCT A STUDY OF EXISTING PUBLIC SCHOOL MAINTENANCE PROGRAMS AND PRESENT RECOMMENDATIONS TO THE 1975 GENERAL ASSEMBLY FOR IMPROVEMENT OF SUCH PROGRAMS.

Whereas, the problems of maintaining the physical plants of the public schools are increasing; and

Whereas, the public schools are experiencing increasing difficulty in procuring and retaining qualified maintenance personnel; and

Whereas, local school administrative units are not being afforded statewide standard pay scale information or guidance for maintenance employees; and

Whereas, increasing complexity of school buildings require higher degrees of technical competency for maintenance personnel;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The State Board of Education is directed to conduct a thorough study of existing public school building maintenance programs throughout the State of North Carolina and present to the 1975 General Assembly recommendations to effect a statewide program that will standardize and improve the overall working conditions of public school maintenance personnel and thereby improve public school building care.

**Sec. 2.** Funds to finance study referred to in Section 1 shall be transferred from the Contingency and Emergency Fund.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 1435

### RESOLUTION 173

A JOINT RESOLUTION PROCLAIMING THE WEEK OF JULY 1-6, 1974, AS USA-USSR WEEK IN NORTH CAROLINA.

Whereas, the City of Durham, North Carolina, and the State of North Carolina will host the prestigious 1974 USA-USSR International Track Meet on July 5th and 6th, 1974; and

Whereas, the people of the City of Durham and the people of the State of North Carolina have another unique opportunity to welcome and exchange cultures and friendships with visitors from the Soviet Union and visitors from around the United States and the world; and

Whereas, a full week of activities during the period of July 1-6, 1974, is being planned for the area and many businesses and individuals are inviting visitors to come and see North Carolina and the track meet; and

Whereas, news media from the sports and non-sports world will attend the track meet to report the activities; and

Whereas, the General Assembly of North Carolina desires to express its approbation and support for this event and its purposes;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

## Resolutions—1973

**Section 1.** The General Assembly of North Carolina hereby proclaims the week of July 1-6, 1974, as USA-USSR Week in North Carolina.

**Sec. 2.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 1437

### RESOLUTION 174

A JOINT RESOLUTION HONORING THE LIFE, SERVICE AND MEMORY OF HARRY TRACY WESTCOTT.

Whereas, Harry Tracy Westcott was born in Manteo, North Carolina, April 13, 1906, the son of George Thomas and Odessa Tillet Westcott; and

Whereas, he was educated in the public schools and graduated from high school in 1924 in Manteo, North Carolina; received his B.S. degree from North Carolina State University in 1928; and thereafter, taught in the public schools of North Carolina. From 1941 through 1950, Harry Tracy Westcott worked in various capacities with the North Carolina Department of Agriculture. He was appointed to the North Carolina Utilities Commission in March of 1950 and later became Chairman by appointment of the Governor in 1958, in which capacity he served until his retirement from the Commission on June 30, 1972, and during which time he distinguished himself by outstanding service to the citizens of this State and nation. He served as a member of the Executive Committee, as Second Vice-President, First Vice-President and President of the National Association of Regulatory Utility Commissioners; and

Whereas, Harry Tracy Westcott devoted his full life to public service and brought credit to the State by his distinguished and dynamic service as a member and Chairman of the Utilities Commission and by his national prominence in this field. This distinguished career always reflected his keen sense of fairness, justice, common sense, courage and integrity; and his contributions to his community, his State and nation are a symbol of a devoted career as a citizen and public servant to be long remembered in the distinguished history of this State; and

Whereas, on April 13, 1973, the same day of the month of his birth, Harry Tracy Westcott died after a short illness and left surviving him his widow, Helen Rankin Westcott, and two children, Helen Rankin Westcott and Robert Thomas Westcott.

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The General Assembly hereby expresses its deep sense of loss in the death of Harry Tracy Westcott, an outstanding citizen and career public servant of the State of North Carolina, and by this resolution conveys its heartfelt sympathy and grateful appreciation to the family of Harry Tracy Westcott.

**Sec. 2.** A copy of this resolution shall be sent to the family of Harry Tracy Westcott.

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 1447

**RESOLUTION 175**

**A JOINT RESOLUTION URGING THE UNITED STATES CONGRESS TO DEVELOP A NATIONAL ENERGY POLICY.**

Whereas, we have today a total energy crisis in this country and not just a petroleum shortage. This situation is going to require real sacrifices on the part of all Americans. From their apparent response to early official pleas for fuel conservation, the people seem anxious to cooperate.

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** We urge members of Congress to recognize that road transportation is not a luxury but is a fundamental element in our fully functioning society. This is especially true in North Carolina, where the recreational travel industry alone is among the three top income producers. Moreover, motor vehicle use is vital to the public health, safety and national defense as well as the general economy. Any economic or legal restrictions on the use of motor vehicles should take these facts into account to avoid widespread economic disruptions.

**Sec. 2.** With respect to the current situation, we recommend that immediate steps be taken to implement a prudent national energy policy which will achieve the greatest possible degree of energy self-sufficiency. This policy should include the following steps:

1. To centralize energy authority and responsibility in one federal agency.
2. To move as quickly as possible to develop alternative forms of energy.
3. To take whatever steps necessary to implement exploration in all possible areas, including exploration and development of new energy resources, subject to reasonable conditions for the protection of the environment.
4. To establish the necessary deep-water ports to handle larger, more efficient tanker vessels, in appropriate locations.
5. To work to develop a national energy conservation ethic.
6. To undertake a national information program to inform the general public on the entire energy situation.
7. To insure that any required controls on the use and allocation of petroleum products are the minimum necessary in order to minimize the effect on the travel industry, which is the third largest industry in the State of North Carolina.
8. To reevaluate relevant procedures for implementation of environmental goals in view of our short and long term energy problems, in light of both a high quality environment and a sufficient supply of energy.
  - a. Scientific investigation should be continued in the area of automobile emission control standards to determine the level of control necessary, consistent with the public health and welfare.
  - b. Interim extensions and variances from compliance schedules for emission controls should be allowed to help alleviate the energy crisis.
9. Due to many factors, North Carolina should receive a higher allocation of petroleum products than it is currently receiving.
10. To insure the best use of available gasoline supplies, there should be a continuing highway improvement program, especially in urban areas, so as to expedite traffic flow and reduce traffic congestion and provide facilities for two leading forms of mass transit—bus transit and car pools.

## Resolutions—1973

**Sec. 3.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 1479

### RESOLUTION 176

#### A JOINT RESOLUTION CREATING A STUDY COMMISSION TO EVALUATE THE STATE TEXTBOOK COMMISSION.

Whereas, the State Board of Education, upon the recommendation of the Textbook Commission, must select and determine which textbooks are going to be used in the public schools of this State; and

Whereas, the Textbook Commission plays a most important and significant role in reviewing textbooks and recommending to the State Board of Education which textbooks are most appropriate for use in the public schools of this State; and

Whereas, the role of the Textbook Commission is so vital and important to the ultimate education and welfare of the youth of our State that any changes in the composition and duties of the Textbook Commission should be made only after careful reflection and review;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby created a Legislative Study Commission to consider legislation regarding what changes, if any, should be made in the present statutes dealing with the composition and duties of the Textbook Commission.

**Sec. 2.** The Commission shall be composed of 10 members, two of whom shall be members of the Senate, appointed by the President of the Senate, and two of whom shall be members of the House of Representatives, appointed by the Speaker of the House. Two of the members of the Commission shall be appointed by the Governor, two by the State Board of Education and two by the State Superintendent of Public Instruction. The Commission shall elect a chairman and other officers from the membership of the Commission. Any vacancies occurring on the Commission shall be appointed by the individual or board making the initial appointment.

**Sec. 3.** The members of the Commission shall receive per diem, subsistence and travel allowances as other boards and commissions of the State while engaged in the performance of their duties. All expenses of the Commission, including the cost of preparing and printing its findings and recommendations, shall be paid from the Contingency and Emergency Fund.

**Sec. 4.** The Commission shall make its report to the Governor on or before January 15, 1975, and the Governor shall transmit the report to the 1975 Session of the General Assembly.

**Sec. 5.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

## Resolutions—1973

H. R. 2014

### RESOLUTION 177

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY NORTH CAROLINA'S POTENTIAL FOR HUMAN TISSUE DONATIONS AND TO PROPOSE A PLAN FOR FACILITATING THE DONATION AND EFFECTIVE UTILIZATION OF SUCH DONATIONS.

Whereas, while science and medicine today have developed methods for approved matching and acceptance of transplanted human tissue; and

Whereas, the Legislature has already recognized the importance of human tissue transplants by passing the Uniform Anatomical Gift Act in 1969; and

Whereas, any further development of the implementation of that act and related efforts to attract human tissue donors offers great promise for the improvement of the human condition and alleviation of human suffering;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** The Legislative Research Commission is hereby authorized and directed to study the potential and utilization programs for human tissue donations.

**Sec. 2.** The Commission shall make a broad and in-depth study of the status of the current kinds and numbers of tissue transplants and the coordination involved by statewide health care personnel. It shall analyze the problem of getting the human tissue needed to the person who needs it. It shall seek to suggest methods by which a coordinated statewide program might be established in conjunction with the efforts of the North Carolina Medical Society and the North Carolina Hospital Association.

**Sec. 3.** The Legislative Research Commission shall report its findings and recommendations to the 1975 General Assembly.

**Sec. 4.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of April, 1974.

S. R. 1493

### RESOLUTION 178

A JOINT RESOLUTION HONORING DR. J. W. SEABROOK.

Whereas, the late Dr. J. W. Seabrook served as Dean at Fayetteville State University for 11 years and as President of that institution for 23 years; and

Whereas, the institution grew from a two-year normal school to a four-year teachers' college under his administration; and

Whereas, the college became accredited by State and regional agencies under his administration; and

Whereas, numerous capital improvements were made on the campus while he served as President; and

Whereas, he was recognized as an educational statesman throughout the State and region; and

Whereas, Cumberland County and the State of North Carolina have suffered a great loss in the passing of this noble citizen;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

## Resolutions—1973

**Section 1.** That the General Assembly hereby note in its records the excellent contribution that James Ward Seabrook made to North Carolina and higher education in particular and that the memory of James Ward Seabrook be honored in a manner such that all North Carolinians will know that Fayetteville State University and higher education are better today because he passed this way.

**Sec. 2.** That an engrossed copy of this resolution, suitably framed, be presented to Mrs. James Ward Seabrook.

**Sec. 3.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. R. 1506

### RESOLUTION 179

A JOINT RESOLUTION COMMEMORATING THE 198TH ANNIVERSARY OF THE HALIFAX RESOLVES.

Whereas, April 12, 1974, is the 198th anniversary of the occasion on which the Fourth North Carolina Provincial Congress adopted the famous Halifax Resolves; and

Whereas, the Halifax Resolves authorized the North Carolina delegates to the Continental Congress at Philadelphia to concur with the delegates of other colonies in a declaration of independence from the British Empire; and

Whereas, the members of the Fourth Provincial Congress were already determined on the course of independence and knew other colonies were likewise so determined; and

Whereas, the said members forbore to take unilaterally an action which they conceived ought to be taken by all thirteen colonies in unison; and

Whereas, by such forbearance they set the example for American unity in defense of American liberty; and

Whereas, such examples led ultimately to the winning of American independence and to the establishment of the oldest surviving constitutional republic in the world; and

Whereas, the example set at Halifax on April 12, 1776, ought ever to be an inspiration and model for all North Carolinians and Americans; and

Whereas, April 12 of every year has been designated as Halifax Day; and

Whereas, Halifax Day is the occasion on which the State and the nation are annually reminded of the wisdom, courage, and foresight of the Fourth North Carolina Provincial Congress; and

Whereas, the General Assembly of North Carolina is desirous of making known its approbation and support of the purpose of Halifax Day;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** That the General Assembly of North Carolina extends its warmest wishes and highest respects to those citizens of North Carolina and other states gathered at Halifax to commemorate Halifax Day.

**Sec. 2.** The General Assembly commends to all North Carolinians and all Americans that they study and emulate the example set at Halifax by the members of the Fourth North Carolina Provincial Congress on April 12, 1776.

**Sec. 3.** This resolution shall become effective upon ratification.

## Resolutions—1973

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. R. 2187

### RESOLUTION 180

A JOINT RESOLUTION EXPRESSING THE GRATITUDE OF THIS STATE TO ITS VIETNAM VETERANS BY ENCOURAGING NORTH CAROLINA EMPLOYERS TO HIRE VIETNAM VETERANS.

Whereas, the Great State of North Carolina has always given her most in time of War, and has lost her bravest and best in the name of Democracy; and

Whereas, the Great State of North Carolina did maintain and support the Vietnam conflict by having her sons involved in combat to preserve Democracy in Southeast Asia; and

Whereas, the Great State of North Carolina is not doing enough to alleviate the problem of the Vietnam Veteran to re-establish himself in society and take an active part in the Democracy he fought so valiantly to preserve;

*Now, therefore, be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** That the North Carolina General Assembly hereby encourages the hiring of the Vietnam Veteran on a full-time basis by the employers of our State.

**Sec. 2.** That the North Carolina General Assembly encourages the hiring of those Vietnam Veterans who are enrolled in school, for part-time employment.

**Sec. 3.** That by giving employment to Vietnam Veterans the Great State of North Carolina may express her gratitude to the Vietnam Veterans for the service they have given.

**Sec. 4.** That this resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. R. 1073

### RESOLUTION 181

A JOINT RESOLUTION CREATING A COMMISSION FOR THE STUDY OF SOLID WASTE RECYCLING.

Whereas, continuing technological progress in manufacturing, packaging and marketing of products has resulted in an increase and change in the solid waste discarded by consumers; and

Whereas, high percentages of these wastes are disposed of in sanitary landfills, thereby increasing the demand for available land for such purposes; and

Whereas, inefficient and improper methods of solid waste disposal produce scenic blights, serious hazards to the public health, pollution of air and water resources, and otherwise interfere with community life and development; and

Whereas, much of the material that is being disposed of as solid waste has a potential for being beneficially used or recycled and returned to the economy; and

Whereas, new or expanded industries engaged in resource recovery would result in economic growth in North Carolina; and

## Resolutions—1973

Whereas, the recycling or other reuse of solid wastes will decrease the use of our natural resources and decrease the amount of land, facilities and money that are required for the ultimate disposal of solid waste; and

Whereas, the failure or inability to salvage and reuse such materials economically results in the unnecessary waste and depletion of our natural resources;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** The North Carolina General Assembly recognizes the need for development of resource recovery methods and techniques and for promoting programs that will lead to facilities that will promote and protect the public interest in the use and utilization of our natural resources.

**Sec. 2.** There is hereby created a Commission for the study of State and local solid waste disposal problems, with particular emphasis on recycling, resource recovery programs and litter control, to be composed of eight members, four to be appointed by the President of the Senate and four to be appointed by the Speaker of the House.

**Sec. 3.** It shall be the duty of the Commission to make a study of solid waste recycling, resource recovery and litter control, and determine the feasibility of instituting such programs in North Carolina, and to that end it shall report and submit its recommendations by February 1, 1975, to the 1975 General Assembly of North Carolina.

**Sec. 4.** The Commission may call upon any State agency and its staff and employees or institution to cooperate with it in its study, and all such agencies or institutions shall cooperate with the Commission in carrying out its duties. All surveys, investigations, inspections, evaluations and all other work of any such State agency, staff, employees or institution in gathering data in the areas covered by this resolution shall be done at the direction of and in conjunction with the Commission.

**Sec. 5.** Necessary staff for the Commission shall be furnished by the Legislative Services Commission.

**Sec. 6.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. R. 1501

### RESOLUTION 182

A JOINT RESOLUTION ESTABLISHING A LEGISLATIVE COMMISSION TO STUDY WAYS THAT REDUCTIONS COULD BE MADE IN THE OPERATING COSTS OF STATE GOVERNMENT.

Whereas, the State government of North Carolina is a huge enterprise providing a wide variety of governmental services to the over five million people of our State; and

Whereas, there are more than 100,000 employees on the State payrolls, with some located in every county in North Carolina; and

Whereas, the General Assembly is aware of the heavy tax burden shouldered by the taxpayers of North Carolina; and

Whereas, this burden could be greatly reduced by eliminating overlapping programs, and unnecessary and excessive expenditures; and

## Resolutions—1973

Whereas, a Special Commission on North Carolina Revenue Laws has been established to evaluate all of the State's tax and revenue laws; and

Whereas, the savings produced by reducing unnecessary expenditures could substantially offset the revenue loss produced by a tax cut;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** Commission created. There is hereby created a Commission to be known as the Legislative Commission on Governmental Expenditures, to study, evaluate and make recommendations on reductions in the operating costs of State government.

**Sec. 2.** Appointment of members. The Commission shall consist of 10 members. The President of the Senate shall appoint five members of the Senate, and the Speaker of the House of Representatives shall appoint five members of the House. One member from each House shall be of the minority party. The heads of the various departments of State government are directed to cooperate with this Commission in the execution of its duties.

**Sec. 3.** Organization of the Commission. The Chairman of the Commission shall be elected by the membership of the Commission at its first meeting. In the event of a vacancy on the Commission the vacancy shall be filled by the officer who made the original appointment.

**Sec. 4.** Compensation and expenses of members of the Commission. Members of the Commission shall receive subsistence and travel allowance, at the rate set forth in G.S. 120-3.1(b) and (c).

**Sec. 5.** Authority of the Commission for staffing.

(a) The Commission is authorized to utilize the staff of the Fiscal Research Division of the Legislature.

**Sec. 6.** Final reports and recommendations. The Commission shall prepare and deliver to the President of the Senate and the Speaker of the House of Representatives a report of its findings and recommendations on or before February 1, 1975.

**Sec. 7.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

S. R. 1485

### RESOLUTION 183

A JOINT RESOLUTION CREATING THE COMMISSION ON PUBLIC AND PRIVATE SCHOOLS.

*Be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby created the Commission on Public and Private Schools.

**Sec. 2.** (a) The Commission shall consist of four members appointed by the President of the Senate and four members appointed by the Speaker of the House of Representatives. The members of the Commission shall be appointed on May 1, 1974, or as soon as practicable thereafter, and shall serve until the termination of the Commission.

(b) If a vacancy occurs in the membership of the Commission, it shall be filled by action of the officer who appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the

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term of the member whom he succeeds. If there is a vacancy in the office of the officer who is authorized to appoint to fill a vacancy in the membership of the Commission, the latter vacancy shall be filled by action of the Commission and the person then chosen shall serve for the remainder of the term of the member whom he succeeds.

(c) The Commission shall elect from its membership a Chairman and such other officers as it deems necessary.

**Sec. 3.** (a) The Commission shall make a thorough study of the relationship between public and private schools, of the relationship of private schools to the office of the Superintendent of Public Instruction, and of the certification of teachers teaching in private schools.

(b) On or before January 1, 1975, the Commission shall file with the Governor, for transmittal to the members of the General Assembly, a written report summarizing the information obtained in the course of its inquiry, setting forth its findings and conclusions, and recommending such administrative action and legislation as it deems the public interest to require. If legislation is recommended, the Commission shall prepare and submit with its report appropriate bills.

**Sec. 4.** (a) The Commission may hold meetings and hearings at such times and places as it deems convenient.

(b) The Commission may adopt rules governing its proceedings.

(c) The Commission may employ such professional, technical, and clerical assistance and may contract for such materials and services as it deems necessary.

(d) Upon request of the Commission, every State department or agency shall provide the Commission with any information in its possession that the Commission deems pertinent to its inquiry.

**Sec. 5.** (a) The members of the Commission shall be entitled to reimbursement for travel and subsistence expenses actually incurred in the performance of their duties at the rates specified in G.S. 138-5(b).

(b) The expenses of the Commission shall be paid from the Contingency and Emergency Fund, pursuant to the procedure prescribed in G.S. 143-12.

**Sec. 6.** (a) The Commission shall terminate upon the filing of its report.

(b) Upon the termination of the Commission, the Chairman shall transmit to the Legislative Library for preservation the records and papers of the Commission.

**Sec. 7.** This resolution shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

## Resolutions—1973

S. R. 1268

### RESOLUTION 184

#### A JOINT RESOLUTION CREATING THE COMMISSION ON SENTENCING, CRIMINAL PUNISHMENT AND REHABILITATION.

Whereas, the State of North Carolina has the largest per capita prison population of any state in the nation; and

Whereas, that population is continuing to rise; and

Whereas, many of the facilities of the Department of Correction are limited and antiquated; and

Whereas, there are few statutory alternatives to incarceration for persons convicted of crimes and said alternatives are not clearly defined and, therefore, statutes providing additional alternatives and better defining those alternatives may be desirable;

*Now, therefore, be it resolved by the Senate, the House of Representatives concurring:*

**Section 1.** There is hereby created the Commission on Sentencing, Criminal Punishment and Rehabilitation.

**Sec. 2.** (a) The Commission shall study the present systems of probation, presentence investigation, sentencing, conditional and unconditional, and all possible alternatives thereto, all forms of diversion, both prior and subsequent to plea or conviction, anticipatory probation, conditions of postponement of trial or sentencing, and other forms of first offender and other relief which may or may not result in disposition without criminal record; the Commission shall study all statutes, rules and regulations relating to sentence time, credit for good conduct, time credit for special work fulfillment, time credit for injury sustained while confined and all other departmental practices and policies affecting length of sentence and sentence credits; and the Commission shall study statutes, rules and regulations pertaining to parole, conditional release and termination thereof, and all other practices and policies affecting the length of sentence, prisoner release, sentence termination; and the Commission shall study all other matters having a bearing upon or relating to sentencing practices in the State of North Carolina including the advisability of sentence review, all Social Rehabilitation and Control departmental practices and policies of the Parole Board and those responsible for administering terminal programs relating to prisoner release and rehabilitation to the extent that same may have a bearing upon or relate in any way to the length of inmate sentence and thereby affect the number of inmates comprising North Carolina's prison population including the inmates of Adult Corrections, the Youthful Offender Program and Youth Development System. The purpose of this study shall be to devise policies, plans, practices and procedures including alternatives to existing practices and procedures which are designed to have the effect of reducing the prison population of the State of North Carolina and its heavy economic burden, consistent with the well-being and security of the general population, and consistent with the declared public policy of the State to provide adequate and appropriate facilities for the confinement of persons convicted of crime and programs for the education, rehabilitation and timely return of said persons to society. In accomplishing its purpose, the Commission may investigate and consider policies, plans, practices and procedures adopted in other states where useful in arriving at alternatives to present practices and policies in this State.

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(b) The Commission shall also study the Corrections and Youth Development system of facilities, education and rehabilitation programs, to include those provided by other state departments and agencies. The Commission shall also study any other matter which in their view affects entry into and retention in the Corrections and Youth Development systems.

(c) On or before February 1, 1975, the Commission shall file with the Governor, the President pro tempore of the Senate and the Speaker of the House of Representatives a written report summarizing the information obtained in the course of its inquiry, setting forth its findings and conclusions, and recommending such administrative action and legislation as it deems the public interest to require. If legislation is recommended, the Commission shall prepare and submit with its report appropriate bills.

**Sec. 3.** (a) The Commission shall consist of four members appointed by the President of the Senate from that body, four members appointed by the Speaker of the House from that body, five members appointed by the Governor, two of whom shall be members of the General Court of Justice Trial Judiciary, and, to the end that the State may benefit from the research and special knowledge of the North Carolina Bar Association Penal Study Commission, four members from the North Carolina Bar Association, appointed by the President thereof, of whom two may be members of the General Court of Justice Trial Judiciary. The members of the Commission shall be appointed by May 1, 1974, and shall serve until the termination of the Commission.

(b) If a vacancy occurs in the membership of the Commission, it shall be filled by action of the officer who appointed the former member who is to be replaced, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds. If there is a vacancy in the office of the officer who is authorized to appoint to fill a vacancy in the membership of the Commission, the latter vacancy shall be filled by action of the Commission and the person then chosen shall serve for the remainder of the term of the member whom he succeeds.

(c) The Commission shall elect from its membership a Chairman and such other officers as it deems necessary.

**Sec. 4.** In executing its duties, the Commission is authorized to hire and salary one professional employee and one secretarial employee. Commission members are authorized to receive *per diem* and mileage at the statutory rates in lieu of compensation. The sum of forty thousand dollars (\$40,000) is authorized to cover the above costs to be paid from the Contingency and Emergency Fund. The Commission shall seek the aid of the Fiscal Research Division of the Legislature in setting up a study methodology and for purposes of periodic review.

**Sec. 5.** (a) The Commission shall terminate upon the filing of its report.

(b) Upon the termination of the Commission, the Chairman shall transmit to the Legislative Library for preservation the records and papers of the Commission.

**Sec. 6.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

H. R. 2066

**RESOLUTION 185**

A JOINT RESOLUTION CREATING A JOINT LEGISLATIVE COMMITTEE TO STUDY THE TAX STRUCTURE OF THE LOCAL UNITS OF GOVERNMENT.

*Be it resolved by the House of Representatives, the Senate concurring:*

**Section 1.** There is hereby created a Joint Legislative Committee to study the tax structure of the local units of government, to be composed of 14 members: seven members of the Senate to be appointed by the President of the Senate and seven members of the House of Representatives to be appointed by the Speaker of the House. All appointments shall be made in sufficient time to allow the Committee to begin its work no later than July 1, 1974.

**Sec. 2.** It shall be the duty of the Committee to make a comprehensive study to determine whether the tax structure of local units of government are:

1. In harmony with the public policies of the State,
2. Designed to provide a sound revenue base for the future, and
3. Being fairly, efficiently and effectively administered,

and to make recommendations it deems necessary for changing and improving said tax structure. The Committee shall study and make recommendations regarding the following specific areas of taxation:

1. Taxation of mobile homes
2. Taxation of motor vehicles
3. Property tax relief for the elderly poor and disabled persons
4. Real property revaluation program
5. Ad valorem taxation of household furnishings and personal effects.

**Sec. 3.** Upon its appointment, the Committee shall organize by electing from its membership a chairman and a vice-chairman.

**Sec. 4.** Professional and clerical assistance, printing services, and supplies shall be provided for the Committee by the Legislative Services Office.

**Sec. 5.** The members of the Committee shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members of the Committee who are not reelected for the 1975 General Assembly Session shall continue to qualify for payment under G.S. 120-3.1 and they shall continue to validly exercise all other powers of regular Committee members during the period of time between the end of their elected terms and the termination of the Committee with the presentation of the report required in Section 7.

**Sec. 6.** The Department of Revenue, the Department of Transportation, any other agency of State Government, and the units of local government shall make themselves and their staffs available to the Committee. The Committee shall utilize and incorporate into its study the knowledge and expertise of the North Carolina Association of County Commissioners and the North Carolina League of Municipalities.

**Sec. 7.** The Committee shall submit its report and recommendations to the Governor and the General Assembly by December 1, 1974.

**Sec. 8.** This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

Resolutions—1973

H. R. 2186

**RESOLUTION 186**

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE  
OF THE GENERAL ASSEMBLY ON SATURDAY, APRIL 13, 1974.

*Be it resolved by the House of Representatives, the Senate concurring:*

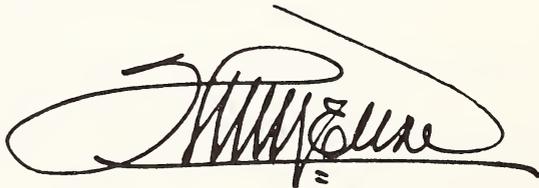
**Section 1.** Both the Senate and the House of Representatives constituting the General Assembly of 1973 do adjourn sine die on Saturday, April 13, 1974, at 2:00 p.m.

**Sec. 2.** This resolution shall take effect upon ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.

STATE OF NORTH CAROLINA  
DEPARTMENT OF STATE,  
RALEIGH, APRIL 16th, 1974

I, THAD EURE, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

A handwritten signature in black ink, appearing to read 'Thad Eure', with a large, sweeping flourish extending from the end of the signature.

*Secretary of State*

1973 GENERAL ASSEMBLY OF NORTH CAROLINA  
FIRST SESSION 1973 AND SECOND SESSION 1974

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1383	868	1473	931	1556	926
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1389	1340	1477	881	1565	895
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1661	981	1752	1180	1877	1363
1662	982	1757	1196	1879	1209
1663	1135	1758	1229	1881	1151
1664	968	1764	1282	1889	1470
1665	973	1766	1481	1891	1140
1670	1136	1771	1006	1892	1181
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Suggestions for use: When looking for a local law, look under the name of the particular county, city or town involved.

When looking for a law which amends or repeals a certain law, look under the heading "Laws Amended or Repealed."

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